

EXHIBIT 1

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1	Five banks, five banks, five of the co-conspirators,		1	BNP Paribas.	
2	pleaded guilty to felonies in connection with using the same		2	Credit Suisse and the co-conspirator dealers	
3	chatrooms we are going to see today to fix prices in the		3	controlled over 90 percent of the part of the foreign exchange	
4	foreign exchange market.		4	market that deal with customers who want to buy and sell	
5	Two traders pleaded guilty to felonies in connection		5	foreign exchange. They run the store. If you want to exchange	
6	with using the same chatrooms you are going to see today to fix		6	pounds for dollars, you need to go to their store.	
7	prices in the foreign exchange market.		7	I'd like to take you through a couple of the basics of	
8	One trader went to prison.		8	the FX market because I think it will enable you to make sense	
9	Before we go any further, I'd like to thank you for		9	of the rest of them.	
10	your service. The right to a trial by jury dates back to the		10	The FX market operates 24 hours a day. It starts in	
11	passage of the Bill of Rights in 1791. So at least in the		11	New Zealand, goes to Australia, into Asia, Europe, London,	
12	federal system you are part of an almost 250-year tradition.		12	closes in New York. Opens back up again in New Zealand.	
13	Your service is vital to the role, the rule of law, and it is a		13	Trades 252 days a year.	
14	solemn duty of citizenship to which you have our thanks.		14	Currencies are bought and sold in pairs. So again,	
15	The plaintiffs in this class case are represented		15	using pound/dollar, you buy pounds, you sell dollars. Or you	
16	today by the Oklahoma Firefighters Pension & Retirement System,		16	use dollars to buy euros or you use yen to buy euros.	
17	Chase Rankin and Fire Captain Jim Nimmo are here today. If you		17	The top three currency pairs are euro/dollar,	
18	can stand up, please. Thank you, gentlemen.		18	dollar/yen and pound to dollar. They account for over half of	
19	We're also represented by the Government Employees'		19	all foreign exchange trading.	
20	Retirement System of the Virgin Islands represented by		20	Now if you'll see to your left, my right, there is a	
21	Grenville Henderson and Cathy Smith. If you can please stand		21	board with all different types currencies on there. Canada	
22	as well. Thank you.		22	dollars, Swiss francs, Norwegian krone, South African rand,	
23	The lawyers for the plaintiffs include Michael		23	Israeli shekel, Argentinian peso.	
24	Hausfeld, Patrick Coughlin, Walter Noss, you'll meet others		24	87 percent of all traded volume is, again, the U.S.	
25	throughout the trial. My name is Chris Burke. I'm very		25	dollar. When you monkey with the U.S. dollar, you monkey with	
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1	pleased to be addressing you today.		1	the market.	
2	Now the question you are going to be asked to answer		2	Now, on this slide, you will see three letter codes.	
3	is whether and with whom Credit Suisse agreed to engage in a		3	EUR, that means euro. USD, U.S. dollar. JPY, Japanese yen.	
4	scheme in widening spreads. This poses what's known as an		4	GBP, Great British pound.	
5	antitrust problem. Competitors getting together to agree to		5	Every single currency has a unique three letter code.	
6	widen spreads. And spread is price, price fixing. That's		6	They are like airports. LAX is Los Angeles. J.F.K., New York.	
7	prohibited by the antitrust laws. The antitrust laws are meant		7	LGA, LaGuardia. Every single currency has a three letter code.	
8	to protect competition. Not competitors. Competition is		8	As we go through the chats, you will see a bunch of three	
9	supposed to result in lower prices. It's supposed to enhance		9	letter codes. I'll stop and translate it for you.	
10	consumer welfare.		10	FX, foreign exchange, is traded in pairs. Each pair	
11	When you see chats where competing banks agree on		11	has what's known as a quote currency and a base currency. In	
12	spreads to show customers, that's price fixing. That's wrong.		12	the pound to dollar currency pair, the quote currency is the	
13	We are going to show you a number of chat transcripts		13	dollar. That tells you how many dollars it takes to buy one	
14	today. The participants were Credit Suisse and its 15		14	British pound. In our example, we are using an exchange of	
15	co-conspirator banks. These banks are supposed to be competing		15	\$1.3090 for one British pound. In this market you trade in	
16	for customer business on the basis of price.		16	millions. Not just one pound to one dollar. So, how many	
17	As you look at the chats, please ask yourself, why		17	dollars would it take to buy 10 million British pounds at an	
18	aren't they competing?		18	exchange rate of 1.390. It would take \$13,090,000 to buy 10	
19	The plaintiffs are a class of persons and businesses		19	million British pounds.	
20	who trade in foreign exchange markets such as the Oklahoma		20	If we can go back. This currency pair is called	
21	Firefighters and the Virgin Islands.		21	cable. Why is it called cable? The first transatlantic cable	
22	Credit Suisse is the defendant, and the alleged		22	connects the U.K. to the United States. So to this day,	
23	co-conspirators are the world's largest banks, the foreign		23	pound/dollar is called cable. You'll find the traders use a	
24	exchange dealers. You probably recognize some of them,		24	lot of interesting trader jargon. Cable is one of them. Cable	
25	JPMorgan, Citi, Goldman Sachs, Bank of America, Morgan Stanley,		25	means pound dollar. If we come across jargon, I'll try to	

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1	guessing if you went through all 2,500 you'd be here to		1	whether, was a conspiracy? Did it happen? If it did, when,	
2	Halloween, maybe closer to Thanksgiving. It would take about		2	and with whom Credit Suisse agreed to engage in a joint scheme	
3	12 and a half of these Bankers Boxes to hold the 2,500 chat		3	of widening spreads?	
4	examples. You're going to hear Credit Suisse say that's not		4	Now, the "whether," we would submit, that's answered	
5	enough. That's not enough. These exemplar chat communications		5	in those 2,500 chats. That's the bulk of our evidence.	
6	span the entire class period and involve every coconspirator.		6	The "with whom," let's just use the chats we went	
7	Fifth Amendment. We took discovery in this case.		7	through today, which is just a small number starting with: We	
8	Twenty-six traders -- not five, not a handful, not a dozen.		8	should all agree on the same spreads; let's sign a pact on	
9	Twenty-six traders -- from 13 dealers asserted their Fifth		9	spreads; day of customers holding us ransom is over; it can	
10	Amendment rights against self-incrimination when asked about		10	never be a bad thing colluding spreads; just quote them wide	
11	the conspiracy to widen spreads. This includes three former		11	and same, that way they have no tight price; once and for all,	
12	Credit Suisse employees, including Mr. Daniel Wise, who was		12	consensus please; how wide we making it, boys; what we think.	
13	formerly Credit Suisse's global head of FX spot trading. He		13	Just using the chats we went through today, every	
14	took the Fifth.		14	single dealer present and accounted for. We filled up the	
15	Guilty pleas and convictions: Banks and traders		15	scorecard.	
16	pleaded guilty. One trader was in prison. Five dealers		16	The "when," again, using the chats we went through	
17	pleaded guilty in connection with entering into and engaging in		17	today starting with we should all agree on the same spreads, to	
18	a conspiracy to fix prices of certain currencies. The		18	let's sign a pact on spreads, to what we think, day of	
19	conspiracy was carried out in conversations in chatrooms you		19	customers holding us ransom are over; we're not allowed to talk	
20	saw today. That includes Barclays, PNP Paribas, Citi,		20	about it, but they continue to talk about spreads; they think	
21	JPMorgan, Royal Bank of Scotland. These are felonies,		21	it's price fixing and collusion, but they do it anyway; just	
22	household name banks pleaded to felonies because of what		22	quote them wide same way, that way they have no tight price,	
23	happened in the chatrooms.		23	all the way through December 2013.	
24	Akshay Aiyer of JPMorgan Chase conspired to fix prices		24	The question, whether, when, and with whom Credit	
25	in part using the chatrooms. He went to prison.		25	Suisse agreed to joint scheme of widening spreads, the	
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1	Chris Cummins and Jason Katz -- Cummins is at Citi;		1	whether's in the chats. Trust the chats. Ask yourself why	
2	Katz at BNP and Barclays -- they plead guilty to conspiring to		2	aren't they competing? The when, 2007-2013. The who, Credit	
3	fix prices carried out their communications in chatrooms,		3	Suisse and 15 coconspirators dealers.	
4	chatrooms that you saw today.		4	I thank you for your kind attention.	
5	The evidence will demonstrate, the evidence will show,		5	Your Honor.	
6	spread is the price customers pay to the dealers for trading		6	THE COURT: Thank you.	
7	FX. And that was the motive, right? The motive is to widen		7	Ladies and gentlemen, we're going to take a ten-minute	
8	the spreads, the wider the spreads, higher the price to the		8	break. Mr. Street will tell you where to go. Please leave all	
9	customers, and the more money banks put in their pockets. The		9	your papers and notes on your chairs, and don't talk about the	
10	dealers knew what they were doing was wrong. It was not market		10	case.	
11	color, but they did it any way. They used multibank chatrooms		11	(Jury excused)	
12	to agree on spread. Used terms like, well, what's the		12	THE COURT: We'll reconvene at 4:05.	
13	consensus, consensus please, let's get on the same page.		13	(Recess)	
14	They didn't need to widen spreads every second, every		14	(Jury present)	
15	hour, every day. Spreads were durable. They monitored and		15	THE COURT: You all can sit down. We're standing for	
16	enforced their conspiracy. They did not take kindly to		16	you, actually, out of respect for the jury. Now, we'll all sit	
17	somebody showing them silly spreads. They relied and trusted		17	down.	
18	each other not to compete. The interconnected chatrooms formed		18	OK. You may proceed.	
19	a network to conspire. With the network, the dealers win;		19	MR. MOSS: Good afternoon, ladies and gentlemen. My	
20	customers lose.		20	name is Edward Moss, and along with my partners, Tammy Roy and	
21	When confronted and put under oath, 26 traders from 13		21	Jason Hall, we represent Credit Suisse.	
22	dealers took the Fifth. Dealers and traders pleaded guilty to		22	I'd also like to introduce Tamara O'Flaherty, in-house	
23	felonies in connections with using chatrooms to fix prices in		23	counsel at Credit Suisse, who will serve as the bank's	
24	the foreign exchange market.		24	representative and will be with us throughout the trial.	
25	The questions you're going to be asked to answer is		25	Now, the plaintiff's counsel just told you some story,	

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1	Court said you don't often see direct evidence like that. OK.		1	buddies, and now he's going to come and testify for these	
2	That's fine. You won't see that. But how about some level of		2	plaintiffs here. Even Mr. Katz is going to concede under oath	
3	coordination among management, some senior people from		3	that he never participated in any conspiracy outside his	
4	management to admit to this, right, to say, yeah, we		4	isolated chatroom.	
5	coordinated all of these things? It would require a lot of		5	There's another thing, I mentioned this earlier, that	
6	coordination. You won't see that at all.		6	you might want to see to support the existence of an agreement,	
7	How about coordinating through one chatroom?		7	right? This was supposedly an agreement to widen spreads.	
8	Mr. Burke stood up here and he said they never thought that		8	Mr. Burke told you, well, these guys have 90 percent market	
9	they were going to get caught. They did whatever they wanted		9	share, these banks, right? They're really powerful. They're	
10	in these chatrooms without regard to the fact that regulators		10	really powerful. How about an expert to come in here and say,	
11	might be reading these years down the road. They didn't even		11	I've analyzed all the data from the class period, from the	
12	think about that. Well, if they didn't think about that,		12	alleged conspiracy period, and I can tell you that spreads were	
13	right, if they did what they wanted and what they wanted was to		13	wider in the market for six years throughout this conspiracy.	
14	all enter into an agreement, the easiest thing would have been		14	You won't see that either. Plaintiffs do have a paid expert	
15	just to get in a chatroom. Different traders trade different		15	who's going to come in here and offer some opinions, but he	
16	currency pairs, right? How about this? All the yen traders,		16	will not offer that opinion.	
17	all 16 of you from your 16 banks, you're in one -- you're in		17	And it makes sense, right? Because if some of these	
18	one chatroom, and all the Deutsche mark traders, you're in		18	banks wanted to widen spreads, what would happen with TD and	
19	another chatroom, and you guys can talk all day, exchange all		19	Wells Fargo? They would come in and take the customers. They	
20	information all day about all these 325,000 transactions. That		20	would undercut. Remember, those banks supposedly aren't in on	
21	doesn't exist either.		21	the conspiracy. It makes perfect sense that spreads were not	
22	All right. What about a document? You might want to		22	wider, because the banks were competing. There's no meeting,	
23	see a document that mentions the global conspiracy. That would		23	there is no document, there's no trader testimony, there's no	
24	be pretty good, right, one document? You're not going to see		24	chatroom with 16 banks. There's no effect on spreads.	
25	that either, ladies and gentlemen. Think about this: There		25	So what do the plaintiffs have? What do they have to	
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1	are millions and millions of emails and chats and		1	try to prove their single 16-bank conspiracy involving Credit	
2	communications by these banks over this six-year period.		2	Suisse? You're going to hear four categories of evidence. The	
3	Wouldn't somebody have mentioned the global price fixing		3	criminal prosecutions, we've already spent time on that; some	
4	agreement among all of them? I mean, hey, what about the big		4	testimony; the spread grids that we heard about -- and those	
5	16 agreement, an email that says that, right? Or, make sure		5	are really important. I'm going to spend some time on those --	
6	you quote the agreed-upon price because of our big agreement		6	and, finally, the chats. As I will explain, none of these	
7	with everyone, everyone. You don't see any of that either,		7	things, none of them, prove the conspiracy that plaintiffs are	
8	right? You won't see a single reference in a single scrap of		8	alleging in this case. And I'd like to start with number one,	
9	paper to a massive global conspiracy. It does not exist.		9	the criminal prosecutions, and get that out of the way up	
10	There's not a meeting, there's not a document, there's not a		10	front.	
11	chatroom with all the traders.		11	Look, ladies and gentlemen, I mean, there was	
12	How about testimony, right? Surely they are going to		12	misconduct in this industry. There's no getting around that,	
13	come in here and they're going to show you one trader, at least		13	right? There were traders who did things they should not have	
14	one, that admits that he or she entered into an agreement with		14	done. You saw some of those things. And I bet you probably	
15	16 other banks. Surely they're going to have one trader admit		15	don't like some of those things, and you're entitled to not	
16	to that, right? No, they will not. Instead you're going to		16	like some of those things. But the evidence will show that	
17	hear trader after trader after trader testify, even the ones		17	what they haven't done was this: They haven't engaged in a	
18	who say they didn't bad things, testify under oath and under		18	sprawling 16-bank conspiracy to fix prices.	
19	penalty of perjury that they did not enter into an agreement		19	So let's be very clear and use some precise language	
20	with all of these things, and that includes Mr. Katz.		20	here to be clear about what these criminal prosecutions are and	
21	Jason Katz is plaintiffs' key trader witness. Jason		21	what they aren't. We want you to understand all of the	
22	Katz already pleaded guilty to a crime. You heard his		22	evidence. We want to show it to you completely and correctly	
23	telephone conversation. He pleaded guilty to a different		23	so you can see it all and judge it all for yourselves.	
24	conspiracy than what the plaintiffs allege here. He cooperated		24	The first point you'll hear about these criminal	
25	with the government in the criminal case of one of his trader		25	prosecutions, you'll hear no evidence that Credit Suisse was	

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1	prosecuted and no evidence that Credit Suisse pleaded guilty to		1	Christopher Hatton, Mr. Katz is going to tell you, I was	
2	anything. Credit Suisse did not plead guilty to an antitrust		2	involved with some bad stuff, but not with Mr. Hatton. He will	
3	conspiracy. Credit Suisse wasn't in those two carpools, those		3	affirmatively say I did not conspire with Mr. Hatton.	
4	two chatrooms, those two isolated chatrooms that the government		4	Mr. Hatton will be here, too, and he will say the same thing.	
5	prosecuted. You're going to hear a lot about the guilty pleas.		5	He wasn't part of any conspiracy, big or small, with Mr. Katz	
6	None of it relates to Credit Suisse.		6	or anyone.	
7	What else is important about these government		7	So now let's move on to this third category of	
8	prosecutions? Well, the government, as I said, prosecuted two		8	evidence, the spread grids. Mr. Burke kept calling them price	
9	chatrooms, two carpools: Four traders talking about one		9	lists. He said, well, these show that spreads are durable.	
10	currency pair in one chatroom over here, and four different		10	Let me ask you a question. If these were such firm price	
11	traders talking about certain other currency pairs in another		11	lists, why are they chatting at all? What's the point? If	
12	chatroom over here. This is isolated stuff. It might be bad		12	they coordinated on the price list, just laminate a copy and	
13	stuff, but it's isolated stuff. There is no evidence that the		13	put it next to your phone. Look up the price when someone	
14	government even tried to mush these two conspiracies that they		14	calls. Why are they chatting at all? The story on the	
15	prosecuted together into one, let alone a conspiracy involving		15	plaintiffs' side just does not hang together, ladies and	
16	all the chatrooms.		16	gentlemen.	
17	Plaintiffs' case here is totally different from what		17	So let's talk about what a spread grid actually is.	
18	the government prosecuted. Plaintiffs' case is not based on		18	OK. A spread grid actually is a chart that the customers ask	
19	one chatroom. It is based on all the chatrooms, hundreds. It		19	each bank to fill out, and they ask the bank to fill them out	
20	is not based on four traders. It is based on all the traders,		20	so that they could play the banks off one another so the banks	
21	hundreds. It is not based on one of those currencies, currency		21	will compete, right? And the Credit Suisse traders will tell	
22	pairs that Mr. Burke had up or two. It is based on all the		22	you that they did different spread grids for different banks,	
23	currency pairs, dozens and dozens and dozens.		23	for different customers, because they showed better spreads to	
24	Plaintiffs' alleged conspiracy here is based on		24	certain customers.	
25	speculation that everybody was talking to everybody about		25	And these aren't price lists at all, the evidence will	
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1	spreads in all the currencies. Speculation that all the		1	show. Remember, spreads are moving all the time, minute by	
2	traders in all the chatrooms formed some sort of interconnected		2	minute, second by second. These are the prices or the spreads	
3	web that actually transmit information about spreads and all		3	that banks can expect to show under normal market conditions.	
4	the currencies. It is a striking overreach that is not		4	Now, again, again with the speculation, plaintiffs say	
5	supported by the actual evidence, and it is because of these		5	that the banks colluded in the chatrooms to put the same	
6	very important differences between what the government		6	numbers in their spread grids, and they showed you one or two,	
7	prosecuted and what these plaintiffs are alleging that even the		7	three chats where they say, oh, we're filling out a spread	
8	traders in the two chatrooms that the government prosecuted are		8	grid. Now, what's your number in this? What's your number in	
9	going to deny under oath the existence of the conspiracy		9	that? How about the follow-through? How about looking at the	
10	alleged in this case. They will testify that they did not,		10	spread grids to see what actually happened? Plaintiffs aren't	
11	they did not, conspire with 15 other banks. Mr. Gardiner was		11	going to show you that. We will.	
12	in one chatroom. You'll hear him by video. He will say that.		12	We analyzed that data. You will hear evidence that	
13	Mr. Cummins and Mr. Katz, they were in another chatroom. They		13	BlackRock is one of the most sophisticated customers in this	
14	will say the same thing. They will all tell you that each of		14	market. It's a big hedge fund. What BlackRock did is it asked	
15	their agreements were limited to the traders in one chatroom.		15	all the banks to provide it with these spread grids, and it	
16	It's completely different.		16	analyzed those spread grids so it could force the banks to	
17	Now, let's move on to the second category of evidence,		17	compete and comparison shop against them. And that is exactly	
18	testimony. Plaintiffs will put on some videos from traders and		18	what the banks did. The banks competed.	
19	two paid experts and three traders live. None of them will		19	We looked at BlackRock's spread grids, and they showed	
20	testify about any conspiracy among anything close to 16 banks.		20	something completely different, completely different than what	
21	None of them will testify that Credit Suisse was part of any		21	the plaintiffs are alleging based on a handful of chats. If	
22	conspiracy. In fact, Mr. Katz, again, their key witness, not		22	there were a conspiracy, if all of those chats, those five or	
23	only will he testify that he didn't engage in a conspiracy with		23	however many chats there were, if that was true and they were	
24	anyone outside his chatroom, but he's also going to admit that		24	all coordinating on the numbers to put in the spread grid, what	
25	one trader he chatted with at Credit Suisse often, Mr. Hatton,		25	would you expect to see? Well, you'd expect to see that they	

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1	spreads. Case closed. Jamie Lawes writes that, and all of a		1	quote to a customer after this chat, how can they prove to you	
2	sudden all of Credit Suisse, hundreds of traders, hundreds of		2	that they agreed on what spread to quote or that they agreed to	
3	salespeople who worked at Credit Suisse, right, they all		3	widen their spread? We heard "let's make a pact" I don't know	
4	entered into a single agreement with the thousands of traders		4	how many times. It's the centerpiece of their case, and they	
5	and salespeople at all the 16 -- 15 other banks to fix spreads		5	didn't even show you the whole thing.	
6	in the whole market, not just the currency pairs that Jamie was		6	Let's drill down a little bit further on the chats	
7	talking about in that chatroom or that he's responsible for,		7	involving Credit Suisse. Plaintiffs have 726 chats in which a	
8	but all of them. That is what the plaintiffs want you to		8	Credit Suisse trader participated over the 1,491 trading days.	
9	believe based on the snippets they keep showing you, right?		9	That is .49 chats about spreads per day. So what that means is	
10	They love let's sign a pact on spreads, agree. All		10	that on an average of about once every other day, one Credit	
11	right. Well, let's break this down. There are three banks in		11	Suisse trader in one chatroom sent or received one chat about	
12	this chatroom, first of all, right? You have Credit Suisse,		12	one spread in one amount of one currency pair. And from that	
13	you have RBS, and you have Goldman. How's this a 16-bank		13	and Jamie Lawes' chat the plaintiffs want you to just infer	
14	conspiracy? I mean, the suggestion that this shows a 16-bank		14	that Credit Suisse was involved in a six-year conspiracy with	
15	conspiracy, first of all, that's just made up, but does it even		15	15 other banks to fix prices in the largest financial market in	
16	show a three-bank agreement on that day? Let's trust the		16	the world. I mean, honestly, this is what you would have to	
17	chats. Let's look at the portions that the plaintiffs don't		17	believe to find that Credit Suisse knowingly participated, that	
18	show you.		18	this is knowing participation in a 16-bank conspiracy.	
19	So Mr. Lawes asks, hey -- to Munson: Do you wish		19	And, ladies and gentlemen, our witnesses, we have	
20	you'd widen your spreads yet?		20	witnesses who will come, the Credit Suisse witnesses will come,	
21	And does Munson say, yeah, we had a deal. I widened		21	and they will testify credibly that Credit Suisse did not enter	
22	my spread. He said: Mate, I wish I could. I totally agree		22	into a spread widening conspiracy. You will hear from	
23	they are wrong.		23	Mr. Yanez. He was the global head of FX. He ran the business.	
24	Mr. Lawes says: Just tell sales, then.		24	You'll hear from Mr. Condie. He was the head spot trader in	
25	Goldman trader says: That's what we do.		25	New York on the FX desk. Mr. Walker was a senior trader in	
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1	Lawes says: Stand your ground, man.		1	New York, worked with Mr. Condie. And Mr. Howarth, the	
2	Goldman says: Trader run the place, not sales. We		2	salesperson in London, the senior salesperson in London. They	
3	tell them what the spread is.		3	will testify credibly. They will explain to you that Credit	
4	What does Munson say at RBS? What Munson says at RBS		4	Suisse did not enter into a conspiracy, and they will explain	
5	is: Not the case here.		5	why. The witnesses will tell you that Credit Suisse was a tiny	
6	So what's going on? Mr. Munson, he wishes he could		6	player in the market in 2007 when this supposed conspiracy	
7	widen spreads. Everyone wishes they could charge higher		7	started.	
8	prices. I'm sure Starbucks -- Mr. Burke showed you the		8	There is Credit Suisse, number 14 with a whopping	
9	chart -- they'd like to charge \$20 for a latte, but they can't,		9	1.51 percent market share. And what did Credit Suisse do?	
10	because of their customers, because of competition, right? And		10	They brought in a new team, a team that had had success	
11	that's what Mr. Munson is saying, I can't, not the case here, I		11	elsewhere in bringing in business. And what was the plan? The	
12	can't just tell sales what to do. The salespeople, whom the		12	plan was to narrow spreads, to compete for customers, to grow	
13	plaintiffs ignore, they want to bring in business by narrowing		13	the market share, and to become a top ten player in the market.	
14	spreads, and Mr. Munson said it would be great to be able to		14	You do not bring customers in by charging higher	
15	widen spreads, we'd make more money, that's true, but I can't		15	prices. The whole plan was to narrow spreads. That is the	
16	because there's competition. And you will hear testimony from		16	exact opposite of what companies in a price fixing conspiracy	
17	Credit Suisse that Mr. Lawes couldn't do that either. That at		17	do. In a price fixing conspiracy, the object is to coordinate	
18	Credit Suisse, the traders did not run the show.		18	and not to compete, but Credit Suisse's whole business plan was	
19	Just as importantly, ladies and gentlemen, where is		19	to compete on spreads, and the evidence is going to show that	
20	the action after all this talk? Where is proof that Credit		20	that is exactly what Credit Suisse did.	
21	Suisse quoted a particular spread to a particular customer		21	Here's a chat between a Credit Suisse customer Pharo	
22	after this chat? You won't see that. How about Goldman		22	Management, it's a fund, and Aki Abiola, a Credit Suisse	
23	quoting a spread to a customer after this chat? You won't see		23	salesperson. The customer says: Aki, can you show a px in 15	
24	that. How about RBS? You won't see that either. If they		24	EURNOK, please? What is that? Px is a price in a \$15 million	
25	can't even prove to you that there was a quote to -- a spread		25	trade in euros for the Norwegian krone. Abiola says: OK. And	

MAC3FOR4	Hatton - Cross	Page 262	MAC3FOR4	Hatton - Cross	Page 264
1	THE COURT: All right.		1	A. When I was hired by Credit Suisse, I was hired to help	
2	MR. COUGHLIN: Thank you, Mr. Hatton.		2	build their Asian currency capabilities, so, we, I was charged	
3	THE WITNESS: Thank you.		3	with improving -- building, basically building a business that	
4	THE COURT: Cross?		4	didn't really exist prior to when I was there.	
5	CROSS-EXAMINATION		5	Q. When you say you were charged with building a business,	
6	BY MR. HALL:		6	what business were you charged?	
7	Q. Good afternoon, Mr. Hatton.		7	A. The Asian FX business.	
8	A. Good afternoon.		8	Q. Did you typically trade euro/dollar, Mr. Hatton?	
9	Q. You understand that the plaintiffs in this case accuse you		9	A. No.	
10	of joining a broad conspiracy --		10	Q. Did you typically trade dollar/yen?	
11	THE COURT: Could you speak directly into the mic,		11	A. No.	
12	please.		12	Q. Did you typically trade Great British pounds to U.S.	
13	MR. HALL: Yes, your Honor.		13	dollars?	
14	Q. Mr. Hatton, do you understand that the plaintiffs in this		14	A. No.	
15	case accuse you of joining a broad conspiracy among 16 banks to		15	Q. Thinking back to the time period we've been talking about,	
16	manipulate FX spreads?		16	when you were asked to quote spot, how much time did you have	
17	A. Yes.		17	to turn around with your quote?	
18	Q. Did you join such a conspiracy, Mr. Hatton?		18	A. A spot price probably 10 to 15 seconds, probably more like	
19	A. No.		19	10.	
20	Q. Let's step back. How long have you worked in the FX		20	Q. Was there an exchange or some kind of electronic platform	
21	business?		21	you could look at that would tell you what the price you needed	
22	A. Approximately 27 years.		22	to turn around and quote, or did you have to use your own	
23	Q. How old were you when you first started working at FX?		23	judgment?	
24	A. I worked in the middle office when I was 21 years old.		24	A. There was an electronic platform that usually didn't	
25	Q. Right out of college?		25	represent the exact quote that you were making, so I had to use	
MAC3FOR4	Hatton - Cross	Page 263	MAC3FOR4	Hatton - Cross	Page 265
1	A. Yes.		1	my judgment.	
2	Q. You understand the relevant period for this case is 2007 to		2	Q. What factors would you have had to think about in those 10	
3	2013?		3	to 15 seconds to turn around a quote?	
4	A. Yes.		4	A. What my own position was, what the market was doing at the	
5	Q. I think we established with Mr. Coughlin you were at HSBC?		5	time, which, you know, which kind of customer was coming in,	
6	THE COURT: I am having trouble hearing and		6	what orders we might have in our books. So a lot of different	
7	understanding you.		7	factors.	
8	MR. HALL: Let me get closer.		8	Q. You've been shown a series of chats here this afternoon.	
9	THE COURT: Even better. Thank you.		9	Those were Bloomberg chats; is that right?	
10	Q. You told Mr. Coughlin you were at HSBC for part of that		10	A. Yes.	
11	time until 2010; is that right?		11	Q. Did you have a business reason to use a Bloomberg chat	
12	A. Yes.		12	while you were at Credit Suisse, Mr. Hatton?	
13	Q. Then you joined Credit Suisse in 2010?		13	A. While I was at Credit Suisse, I did participate in the	
14	A. Yes.		14	chatroom as we've seen and we tried to, we talked to customers	
15	Q. You were there through 2013, and in fact much longer than		15	sometimes, we'd have internal chats, various different chats.	
16	2013; is that right?		16	Q. Did you have any business purpose for participating in	
17	A. Yes.		17	those chats?	
18	Q. When did you leave Credit Suisse?		18	A. The chats that I was in with customers would be exchanging	
19	A. I left Credit Suisse in July of this year.		19	our views. The chats we had internal would be for economic	
20	Q. What are you doing now, Mr. Hatton?		20	information, what our economists might give us. And then the	
21	A. I work for an Australian bank in foreign exchange.		21	chats that I had with other banks might be for market color,	
22	Q. You are still trading FX?		22	what views were, things of that nature.	
23	A. Yes, I am.		23	Q. When you referred to market color, what was to be gained	
24	Q. As an FX trader at Credit Suisse, what was your role with		24	with a firm chatting with traders who worked for other banks?	
25	respect to particular trades that came in?		25	A. We would get views, we would try to have a reality check on	

MAC3FOR4	Hatton - Cross	Page 266	MAC3FOR4	Hatton - Cross	Page 268
1	where the market was at any particular time. We dealt with		1	A. Sure. So there was no central marketplace for the	
2	very volatile currencies, so we wanted to make sure we all had		2	currencies that we were trading. So, I had to put a proper	
3	a handle on the market.		3	price on amounts that I couldn't necessarily get out of right	
4	Q. When you are talking about having a handle on the market,		4	away, so I might have to hold that position for 10 minutes, 15	
5	what do you mean specifically?		5	minutes, 20 minutes, sometimes even longer, depending on the	
6	A. Just so we were pricing liquidity and volatility properly.		6	currency and the time of day.	
7	Q. Why wouldn't you have just asked other traders at Credit		7	Q. How did that make it important that you price	
8	Suisse? What was to be gained by talking about talking to		8	appropriately?	
9	traders at other banks?		9	A. So, you know, our goal, our goal was to, you know, do	
10	A. The other traders at Credit Suisse were trading their own		10	business with the customer as I was building the business, so	
11	currencies. So I was a bit on my own trading Asia.		11	we had to take into consideration -- try to price the customers	
12	Q. You've been asked a series of questions here today about		12	competitively, at the same time make sure the risk is priced	
13	one chatroom in particular which The Old Gits chatroom. Is		13	properly so the bank doesn't lose money.	
14	that right?		14	So there is a fine line where you want to find the	
15	A. Yes.		15	right thing where the customer's happy and the bank incurs	
16	Q. How did you know the people who were The Old Gits chatroom		16	little risk.	
17	with you?		17	Q. We've seen some chats in the course of this afternoon where	
18	A. I had been in the market for a while with them. I		18	you seemed pretty unhappy. Is that fair, Mr. Hatton, at	
19	considered them friends. We had all been trading the mostly in		19	certain moments?	
20	the Asian market or emerging markets for quite some time.		20	A. Yes.	
21	Q. We've seen a series of chats where you talked about, among		21	Q. What's your feeling as you sit here today about seeing some	
22	other things, FX spreads in The Old Gits chatroom. Is that		22	of those chats?	
23	right?		23	A. I have some of the same feelings now that I'm remembering	
24	A. Yes.		24	now that I see them, yeah.	
25	Q. Would you ever take a spread that was discussed in a		25	Q. Why is that?	
MAC3FOR4	Hatton - Cross	Page 267	MAC3FOR4	Hatton - Cross	Page 269
1	chatroom and use it to quote a two-way price to a customer		1	A. Because I think that there's still -- at the time and maybe	
2	without applying your own judgment?		2	even now, there's still customers that are trying to -- there	
3	A. No.		3	are certain customers that you don't want to do business with.	
4	Q. Why not?		4	Q. Why would you not want to do business with a particular	
5	A. Because it was just one piece of information. There's so		5	customer at a particular time?	
6	many, as I mentioned before, there is a lot of other pieces of		6	A. So certain customers would have a tendency to deal with	
7	information that goes into making a price to a customer.		7	multiple banks at the same time, creating a push in the market	
8	Q. What in particular did you get out of information you might		8	where the deal that you did, it would go against you most	
9	have gotten about other traders' opinions on FX spreads? How		9	likely very fast and you would lose money.	
10	did at that help you?		10	Q. Can we look at 244A, Plaintiff's 244A. Mr. Coughlin showed	
11	A. Well, I could make sure that my knowledge of volatility and		11	you this chat earlier this afternoon.	
12	liquidity was right for the time.		12	Mr. Hatton, do you remember that?	
13	Q. Mr. Coughlin read to you from a Credit Suisse policy		13	A. Yes.	
14	document. Do you remember that?		14	Q. And in particular, I believe Mr. Coughlin focused on a line	
15	A. Yes.		15	which is at 13:52:51. Do you see that?	
16	Q. That was dated October 2010?		16	A. Yes, I see that now.	
17	A. Yes.		17	Q. You're saying here just both quote them wide and same, that	
18	Q. Do you believe as you sit here today, Mr. Hatton, that		18	way they have no tight price, right?	
19	anything that you did or discussed in The Old Gits chatroom		19	A. Yes.	
20	constituted a violation of that policy at the time you said it?		20	Q. What was going on here, Mr. Hatton, when you said that?	
21	A. No.		21	A. I was referring to a specific customer who it seemed was --	
22	Q. As you mentioned a minute ago, Mr. Hatton, you wanted to		22	well, was asking someone else for the exact same thing, and it	
23	make sure you were pricing liquidity and volatility accordingly		23	was a customer who was notorious for doing what I just said	
24	or appropriately. Could you explain to the jury what that		24	before with dealing with multiple banks at the same time.	
25	means?		25	Q. What's wrong with a customer dealing with multiple banks at	

MAC3FOR4	Hatton - Cross	Page 270	MAC3FOR4	Hatton - Cross	Page 272
1	the same time?		1	electronic platform, it was all -- it was all open cry I guess	
2	A. As I said it's usually, it's a bit unethical at the time		2	you would call it. So, you are trying to source liquidity to	
3	and also it creates almost a guaranteed loss for the bank.		3	manage your risk properly and also work customer orders or your	
4	Q. How's that?		4	own interests with other people that are in the market.	
5	A. So if there's -- you're making a price on \$20 million, for		5	Q. Just for clarity for the jury, how can you tell looking at	
6	example. He might deal \$20 million with two other people. So		6	this that this is a question where you're trading and not	
7	\$60 million is actually hitting the market rather than 20.		7	competing?	
8	Q. How does that affect your own risk?		8	A. I said I can take, meaning I would buy \$5 million, and then	
9	A. So it would, if -- depending on how the other banks acted,		9	the next line I say I can take 5, meaning I will buy 5 at a	
10	it could most likely drive the price against me before I could		10	price.	
11	get out.		11	Q. Mr. Cummins agrees to sell it to you, correct?	
12	Q. How does that relate to the chat we are looking at here?		12	A. Correct.	
13	A. Directly related.		13	Q. Put that one aside. Let's look at 1191B. I'll refer you	
14	Q. Can you explain to the jury?		14	to the line at 11:58:14, Mr. Hatton.	
15	A. Sure. So this customer was someone who was one of those		15	A. Yup.	
16	customers who had a reputation for doing just as I explained.		16	Q. Before we go to this particular line. This is dated	
17	So, the incentive to quote a customer like this is pretty low.		17	April 19, 2010, do you see that?	
18	Q. Did you want this customer to trade with you at a wide		18	A. Yes.	
19	price?		19	Q. Where were you working at that time?	
20	A. I didn't want the customer to trade with us at all.		20	A. HSBC.	
21	Q. Let's look at 2139A. I'll refer you, Mr. Hatton, at the		21	Q. We don't need to revisit the specific language, but	
22	line at 15:12:52 that we just looked at a minute ago with		22	Mr. Coughlin asked you about this line and suggested that you	
23	Mr. Coughlin.		23	were threatening the people in this chatroom. Do you remember	
24	A. Yeah.		24	that?	
25	Q. What's happening here?		25	A. I remember that, yeah.	
MAC3FOR4	Hatton - Cross	Page 271	MAC3FOR4	Hatton - Cross	Page 273
1	A. I've been invited into the chatroom, and I see who is in		1	Q. Is that what you were doing, Mr. Hatton?	
2	the chatroom and I make a comment.		2	A. No.	
3	Q. What comment did you make?		3	Q. How do you know?	
4	A. "This is a den of thieves."		4	A. Because, first of all, these guys are my friends. It's	
5	Q. What did you mean by that?		5	kind of just the way I would talk to them and the way I would	
6	A. It's just -- it was a figure of speech. It was if I walked		6	talk to other friends. That's how I talk to friends sometimes.	
7	into a bar and saw friends and called them a bunch of losers.		7	Also there is a lot of context earlier in the chat that I was	
8	It was just a comment. It was meant as a joke.		8	just frustrated.	
9	Q. You knew these guys?		9	Q. Frustrated about what?	
10	A. I did.		10	A. Frustrated because I had been asked on a price earlier and	
11	Q. Let's look at Plaintiff's 1944A. And I'll refer you to		11	I made a price and they didn't trade. Then I found out, then I	
12	line 17:28:18.		12	got the feedback that the person said that they would get a	
13	A. Yes.		13	better spread and a bigger amount, which I didn't really	
14	Q. Mr. Coughlin asked you whether the gentlemen in this		14	believe. And then come to find out they actually dealt on a	
15	chatroom were your competitors. Do you remember that?		15	wider spread, it was just they had found a better price to buy	
16	A. Yes.		16	dollars than I had showed. So it was very frustrating.	
17	Q. Are you competing with respect to the comments around		17	Q. How could a wider spread be a better price, Mr. Hatton?	
18	17:58:18 or are you trading?		18	A. Because he got, he knew -- the customer knew which way he	
19	A. Trading.		19	wanted to be, he was a buyer of dollars and he got shown a	
20	Q. Why would you be trading with somebody in this chatroom?		20	better price to buy dollars than what I showed. Even though we	
21	A. We -- from time to time used chatrooms to try to maximize		21	both showed a two-way price.	
22	liquidity for either filling customer orders or the bank's		22	Q. So in other words, a wider spread can actually be a better	
23	risk.		23	price depending how the customer wants to trade. Is that fair?	
24	Q. How did that help you do business?		24	A. That's correct.	
25	A. Well, if we had a customer order, because there was no		25	Q. One of the participants in The Old Gits chatroom,	

<p>MAC3FOR4</p> <p>Page 274</p> <p>1 Mr. Hatton, was a man named Christopher Cummins; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. Did you ever enter into an agreement of any kind related to</p> <p>4 FX trading with Mr. Cummins?</p> <p>5 A. No.</p> <p>6 Q. Plaintiffs asked you about chats where you had</p> <p>7 conversations with Jason Katz. Do you remember that?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever enter into an agreement relating to FX trading</p> <p>10 with Jason Katz?</p> <p>11 A. No.</p> <p>12 Q. Do you understand that Mr. Cummins was criminally</p> <p>13 prosecuted, Mr. Hatton?</p> <p>14 A. I do.</p> <p>15 Q. Do you understand that Mr. Katz was criminally prosecuted?</p> <p>16 A. I do.</p> <p>17 Q. Were you ever criminally prosecuted, Mr. Hatton?</p> <p>18 A. No.</p> <p>19 Q. Mr. Hatton, did you ever enter into an agreement with</p> <p>20 anyone to manipulate FX spreads?</p> <p>21 A. No.</p> <p>22 MR. HALL: No further questions.</p> <p>23 THE COURT: Okay. You are excused. Thank you.</p> <p>24 (Witness excused)</p> <p>25 MR. COUGHLIN: Your Honor, we are going to put on</p>	<p>MAC3FOR4</p> <p>Page 276</p> <p>1 there is nothing, I have other conferences so if there is, I</p> <p>2 would probably want to come back. Is there anything pressing?</p> <p>3 MR. MOSS: Your Honor, we do have one thing that we</p> <p>4 would greatly appreciate -- it is a sensitive issue --</p> <p>5 discussing briefly off the record. We can do it tonight, we</p> <p>6 can also do it tomorrow morning before court. It's not</p> <p>7 pressing in that regard.</p> <p>8 THE COURT: Briefly off the record, like really</p> <p>9 briefly?</p> <p>10 MR. MOSS: Yes. Very briefly.</p> <p>11 THE COURT: Let's be off the record and go ahead.</p> <p>12 (Discussion off the record)</p> <p>13 (Adjourned until October 13, 2022, at 9:30 a.m.)</p> <p>14 PLAINTIFF EXHIBITS</p> <p>15 Exhibit No. Received</p> <p>16 1191-B, 1142-B, 1974-B, and 2228-B 108</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>MAC3FOR4</p> <p>Page 275</p> <p>1 another depo clip. It should bring us to the end of the day.</p> <p>2 THE COURT: How long is it?</p> <p>3 MR. COUGHLIN: It's probably 45 minutes.</p> <p>4 MR. HALL: Do you know who it is?</p> <p>5 MR. COUGHLIN: Mr. Little.</p> <p>6 THE COURT: Okay. I assume you'll read something to</p> <p>7 tell us all who that is.</p> <p>8 MR. COUGHLIN: Yes.</p> <p>9 MR. BURKE: May I address the jury, your Honor?</p> <p>10 THE COURT: You may.</p> <p>11 MR. BURKE: We're about to see a video from Mr. Peter</p> <p>12 Little who is unavailable. He traded FX at HSBC, Barclays, and</p> <p>13 Credit Suisse.</p> <p>14 (Video deposition of Peter Little playing)</p> <p>15 THE COURT: Why don't we take a break right there.</p> <p>16 It's hard to get it at exactly the right place, but we've come</p> <p>17 to the end of the day. So if we could just resume this</p> <p>18 tomorrow.</p> <p>19 MR. COUGHLIN: Yes.</p> <p>20 THE COURT: Ladies and gentlemen, thank you for your</p> <p>21 attention and your patience. We'll see you tomorrow same time.</p> <p>22 Have a good evening. Don't talk about the case. Please leave</p> <p>23 your notes on the chair.</p> <p>24 (Jury excused)</p> <p>25 THE COURT: We are adjourned for the day. I assume</p>	<p>Page 277</p> <p>1 INDEX OF EXAMINATION</p> <p>2 Examination of: Page</p> <p>3 ERIC JEAN CHRISTOPHE ROBIN</p> <p>4 Direct By Mr. Noss 111</p> <p>5 Cross By Ms. Roy 164</p> <p>6 CHRISTOPHER HATTON</p> <p>7 Direct By Mr. Coughlin 224</p> <p>8 Cross By Mr. Hall 262</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>MAD3FOR1 Katz - Cross Page 319</p> <p>1 Q. You disagree that 40 hours a week times 52 weeks times 2 \$400? 3 A. It's not -- the math might be right. It's not 40 hours a 4 week. 5 Q. I am just asking you about the annualized basis but we can 6 move on. 7 Mr. Katz, you're here because the plaintiffs called 8 you to testify in their case, correct? 9 A. Yes. 10 Q. Let's talk about the crime to which you pleaded guilty. 11 You were in a chatroom, we covered this, called the ZAR, right? 12 A. Yes. 13 Q. Can we take a look please at DTX 2003. 14 Mr. Katz, you worked for Barclays and then PNB Paribas 15 during the time that you were in the ZAR chatroom, right? 16 A. Yes. 17 Q. Mr. Cummins was also in the chatroom. He worked for 18 Citibank, right? 19 A. Yes. 20 Q. Mr. Williams was also in the ZAR chat? 21 A. Yes. 22 Q. He worked for Barclays, right? 23 A. Correct. 24 Q. And Mr. Aiyyer, he was the fourth member, correct? 25 A. Yes.</p>	<p>MAD3FOR1 Katz - Cross Page 321</p> <p>1 A. Yes. 2 Q. That was one of the -- we covered this with Mr. Burke -- it 3 was one of the CEEMEA currencies? 4 A. Correct. 5 Q. CEEMEA stands for Central and Eastern Europe Middle East 6 and Africa, right? 7 A. Correct. 8 Q. And I think we covered the currencies, it includes the 9 South African rand, right? 10 A. Yes. 11 Q. The Hungarian forint, correct? 12 A. Yes. 13 Q. The Polish zloty, right? 14 A. Yes. 15 Q. Is that right? 16 A. Yes. 17 Q. The Czechoslovakian koruna? 18 A. Yes. 19 Q. The Romanian Leu? 20 A. Yes. 21 Q. The Russian ruble? 22 A. Yes. 23 Q. The Turkish lira, right? 24 A. Yes. 25 Q. And the Israeli shekel, right?</p>
<p>MAD3FOR1 Katz - Cross Page 320</p> <p>1 Q. And he worked for JPMorgan Chase, right? 2 A. Yes. 3 Q. Among the four of you there were four banks represented: 4 Barclays, BNP, Citi, and JPMorgan, right? 5 A. Yes. 6 Q. There were no other members of the ZAR chatroom, other than 7 you four, correct? 8 A. Correct. 9 Q. There was certainly no Credit Suisse trader in the ZAR 10 chatroom, right? 11 A. Correct. 12 Q. Mr. Katz, you never pleaded guilty to an antitrust 13 conspiracy involving anyone other than Mr. Cummins, Mr. Aiyyer, 14 and Mr. Williams, right? 15 A. Correct. 16 Q. All the other traders in the world who weren't in the ZAR 17 chatroom, they weren't part of the conspiracy to which you 18 pleaded guilty, correct, sir? 19 A. Correct. 20 Q. And no trader who worked for any other bank participated in 21 the chats or the chatroom, that being the ZAR, that led to your 22 guilty plea, right? 23 A. Correct. 24 Q. And we covered ZAR means South African rand, right, 25 Mr. Katz?</p>	<p>MAD3FOR1 Katz - Cross Page 322</p> <p>1 A. Yes. 2 Q. It doesn't include euro/dollar, dollar/yen, Great British 3 pound/yen? 4 A. Just as crosses, but not as the primary. 5 Q. The conspiracy to which you pleaded guilty was limited to 6 only the CEEMEA currency pairs, right? 7 A. Yes. 8 Q. So, Mr. Katz, before you pleaded guilty, you faced a 9 maximum potential of 10 years in jail, right? 10 A. Yes. 11 Q. And you signed the plea agreement with the Department of 12 Justice, correct? 13 A. Yes. 14 Q. And the agreement you reached required the government to 15 write a letter to the judge on your behalf to argue that you 16 shouldn't go to jail, right? 17 A. Correct. 18 Q. And but Mr. Katz, to get that letter, you had to hold up 19 your end of the bargain, correct? 20 A. Yes. 21 Q. Right. And what that meant, among other things, is you had 22 to cooperate fully and truthfully with the Department of 23 Justice, right? 24 A. Yes. 25 Q. And Mr. Katz, the truthfully part, that was important,</p>

MAD3FOR1	Katz - Cross	Page 327	MADHFor2	J. Katz - Cross	Page 329
1 Gits, right?			1 BY MR. MOSS:		
2 A. Yes.			2 Q. And you know, by the way, that the government never		
3 Q. When it came time to confess to the government about			3 prosecuted Mr. Mullaney or Mr. Sweeney, right?		
4 everything you did wrong, the only ones in this chatroom who			4 A. Right.		
5 you identified as your co-conspirators were Mr. Cummins,			5 Q. Now let's focus on Mr. Hatton for a minute.		
6 Mr. Mullaney, and Mr. Sweeney, right?			6 He worked at Credit Suisse for part of the time he was		
7 A. Correct.			7 in The Old Gits, correct?		
8 Q. You didn't conspire with any of the others, correct?			8 A. Correct.		
9 A. I didn't believe so.			9 Q. Let's be very clear about this for the jury, Mr. Katz. You		
10 Q. You didn't conspire with Mr. Barisic, right?			10 did not identify Mr. Hatton as a coconspirator when you spoke		
11 A. I didn't believe so.			11 to the government, right?		
12 Q. Even though he was in The Old Gits chatroom, correct?			12 A. Correct.		
13 A. Correct.			13 Q. And in fact, it's your testimony that you never conspired		
14 Q. Even though you think you were conspiring with the other			14 with Mr. Hatton to violate the antitrust laws, correct, sir?		
15 people in The Old Gits chatroom, right?			15 A. Yes, I didn't believe so.		
16 A. Right.			16 Q. Right. In fact, you told the government affirmatively that		
17 Q. You didn't think you conspired with Mr. Cook either, right?			17 you did not conspire with Mr. Hatton, right?		
18 A. Correct.			18 A. I -- correct, I don't believe I did.		
19 Q. Even though he was in The Old Gits chatroom, correct?			19 Q. Right. And that's what you told the government in those 50		
20 A. Yes.			20 hours of meetings, right?		
21 Q. You didn't think you conspired with Mr. McInerney, right?			21 A. I don't remember if I specifically mentioned him.		
22 A. Correct.			22 Q. Let's take a look at your trial testimony from the Ayer		
23 Q. Even though he was in The Old Gits chatroom, right?			23 trial. This is page 1093, and it's going to be lines 15 and		
24 A. Yeah.			24 17.		
25 Q. Even though you were conspiring with other people in that			25 Can we pull that up, please.		
MAD3FOR1	Katz - Cross	Page 328	MADHFor2	J. Katz - Cross	Page 330
1 chatroom, right?			1 You recall that you testified --		
2 A. Yes.			2 A. I'm sorry. I don't have -- now I'm getting it.		
3 Q. Right. You didn't think you conspired with Mr. Sheppard at			3 Q. You recall, Mr. Katz, you testified in the Ayer trial?		
4 Bank of America, right?			4 THE COURT: This is not in evidence. You're just		
5 A. Correct.			5 asking him about this. We won't display it, but the witness		
6 Q. Even though he was in that same chatroom, correct?			6 can see it.		
7 A. Yes.			7 Q. Mr. Katz, when you testified in the Ayer trial, you gave		
8 Q. And so let's talk about Mullaney and Sweeney. The reason			8 truthful testimony, right?		
9 you believed you conspired with Sweeney and Mullaney within			9 A. Yes.		
10 this chatroom was that you all traded the ZAR, the South			10 Q. Does this refresh your recollection that you testified		
11 African rand, right?			11 previously that you affirmatively told the government that		
12 A. Correct.			12 Mr. Hatton was not --		
13 Q. You overlapped currency pairs, right?			13 THE WITNESS: They're showing me the thing, your		
14 A. Correct.			14 Honor.		
15 Q. Right. Meaning you traded the same ones, correct?			15 MR. MOSS: Sorry. I think we can take it off the		
16 A. Yes.			16 screen. Sorry, your Honor.		
17 (Continued on next page)			17 Q. Does this refresh your recollection, Mr. Katz, that you		
18			18 affirmatively told the government that Mr. Chris Hatton was not		
19			19 one of your coconspirators?		
20			20 A. I can't see anything, so...		
21			21 Q. Oh. I'm sorry. I thought it should have been just on		
22			22 Mr. Katz's screen.		
23			23 A. Sorry. I have nothing on mine.		
24			24 Q. You have it now?		
25			25 A. No, I don't.		

MADHFor2	J. Katz - Cross	Page 331	MADHFor2	J. Katz - Cross	Page 333
1	THE COURT: Not your fault. It's just a technical		1	A. Mullaney and Sweeney.	
2	issue. If we can find a way to turn --		2	Q. Just Mullaney and Sweeney?	
3	THE WITNESS: I have it.		3	A. Cummins was already in one.	
4	THE COURT: He has it now, but the jury does not,		4	Q. So what you told the government was that you participated	
5	right? OK.		5	in one conspiracy with Aiyer and Cummins and Williams, right?	
6	BY MR. MOSS:		6	A. Yes.	
7	Q. All right. Thank you.		7	Q. And then you participated in another conspiracy with	
8	Mr. Katz, does this refresh your recollection that you		8	Mullaney and Sweeney, right?	
9	told the government that Mr. Hatton was not one of your		9	A. Right.	
10	coconspirators?		10	Q. And that conspiracy, the other one, that was in The Old	
11	A. Correct.		11	Gits chatroom, right?	
12	Q. Mr. Hatton traded in Asian currencies, right?		12	A. Correct.	
13	A. Correct.		13	Q. And none of those guys, Mullaney and Sweeney, neither of	
14	Q. And you did not trade in Asian currencies at the time,		14	them worked at Credit Suisse either, right?	
15	right?		15	A. Right.	
16	A. Other than Singapore, no.		16	Q. And you never participated in any other conspiracy with any	
17	Q. One reason you believe you didn't conspire with Mr. Hatton		17	other trader other than the two conspiracies I just covered,	
18	is that you guys traded different currency pairs, right?		18	right?	
19	A. Correct.		19	A. I don't believe so.	
20	Q. And you didn't conspire with him even though you were both		20	Q. And you certainly never participated in any conspiracy with	
21	in the Old Gits chatroom, correct?		21	lots of other FX traders to manipulate spreads or fix spreads	
22	MR. BURKE: Objection, your Honor. Calls for a legal		22	in all the currency pairs in the market, right?	
23	conclusion.		23	A. I don't believe so.	
24	THE COURT: Well, if you just change your words, I'll		24	MR. MOSS: Right. Nothing further, your Honor.	
25	allow it.		25	Thank you, Mr. Katz.	
MADHFor2	J. Katz - Cross	Page 332	MADHFor2	J. Katz - Cross	Page 334
1	MR. MOSS: Sure.		1	THE COURT: You're excused. Thank you.	
2	Q. You didn't enter into an agreement with Mr. Hatton, right,		2	We're going to take our midmorning break, but we'll	
3	even though you were in the same chatroom, correct?		3	let Mr. Katz get off the witness stand first.	
4	A. I don't believe so.		4	(Witness excused)	
5	Q. Right. And, in fact, you didn't even consider what you did		5	THE COURT: Ten minutes. You can leave your papers on	
6	with Mr. Hatton to be an agreement or a relationship. Do you		6	the chair.	
7	remember giving that testimony?		7	(Jury excused)	
8	A. I don't believe I was.		8	(Continued on next page)	
9	Q. You don't believe that you had an agreement or a		9		
10	relationship with Mr. Hatton, right?		10		
11	A. Correct.		11		
12	Q. Mr. Katz, you pleaded guilty to a conspiracy involving		12		
13	three other people: Akshay Aiyer, Chris Cummins, and Nicholas		13		
14	Williams, right?		14		
15	A. Correct.		15		
16	Q. That conspiracy was in the ZAR chatroom, correct?		16		
17	A. Yes.		17		
18	Q. And none of those traders worked at Credit Suisse, right?		18		
19	A. Correct.		19		
20	Q. And though you were never charged with anything else, you		20		
21	also believe that you participated in another conspiracy,		21		
22	right?		22		
23	A. Yes.		23		
24	Q. And that conspiracy was with Cummins and Mullaney and		24		
25	Sweeney, right, correct?		25		

MAD3FOR3	Singer - Direct	Page 355	MAD3FOR3	Singer - Direct	Page 357
1	1767. And ask you the same question. In reviewing the record		1	Q. Mr. Katz, Dr. Singer, testified this morning regarding the	
2	evidence, and reaching your conclusions, did you consider		2	closing of the chatrooms. Without us being able to talk we	
3	Plaintiff's Exhibit 1767, in which Credit Suisse starts off a		3	would lose a lot of money.	
4	chat conversation asking how wide is 100 quid. And then Morgan		4	Is that consistent with your understanding and your	
5	Stanley trader responds 12 to 15. And then Bank of America		5	conclusion?	
6	says, hey, per the fed not allowed to ask what you make. Fear		6	A. Yes.	
7	of collusion and PX fixing. He goes on to say, the Morgan		7	Q. Would collusion, Dr. Singer, to wide spreads in the	
8	Stanley securities trader goes on to say, wow, what a narc.		8	dealer-to-customer market be economically profitable to Credit	
9	The Credit Suisse trader responds FX police.		9	Suisse and the other defendants?	
10	Did you review that chat in the course of reaching		10	A. Yes. In the absence of collusion, the firms would have to	
11	your conclusions?		11	compete and they'd have to set their prices individually and in	
12	A. I did.		12	their own self best interest. And the good thing from a	
13	Q. In reaching your conclusions, of what significance did you		13	competition perspective from consumers is that means lower	
14	find this conduct?		14	prices. The bad thing from the suppliers' perspective is it	
15	A. Well, as an economist, we are trying to understand if the		15	means lower prices.	
16	evidence is more consistent with a conspiracy or with		16	And so, if firms are conspiring in the FX market, they	
17	competitive interaction where firms are pursuing their own		17	can widen the spread, that increases the trading cost to their	
18	independent self-interest. And when the defendants are		18	clients, but increases the profitability to the defendants.	
19	referring to their activities as collusion and price fixing, it		19	Q. Would these higher profits for the trading dealers have an	
20	gives you at least a vantage as to how they see their own		20	impact on consumers?	
21	conduct, and it helps us to make an assessment of, again,		21	A. Yes, it would harm their clients, it would harm consumers.	
22	whether the totality of the evidence is pointing in the		22	Consumers want lower trading costs.	
23	direction of conspiracy or in competition.		23	And so, I think there was an example given by	
24	Q. The second element of your paradigm was performance. What		24	Mr. Robin two days ago but where just a slight inflation in	
25	did you conclude with regard to performance?		25	pips, including artificial inflation that can come about from a	
MAD3FOR3	Singer - Direct	Page 356	MAD3FOR3	Singer - Direct	Page 358
1	A. I concluded that the performance of the industry, once it		1	price fixing conspiracy, could cause the transaction cost on	
2	was subject to the challenged conduct, to the alleged		2	one trade, he showed us, to go up by \$10,000.	
3	conspiracy, and the erection of this network was extremely		3	Now, when you add that up over all the trades, that	
4	valuable to the defendants, and it had had a material		4	can come to a very significant amount. And this is coming out	
5	improvement on their profitability. In fact they were		5	of the pockets of the plaintiffs -- of the class members. They	
6	concerned when the network -- if and when the network were to		6	include the firefighters, the pension funds, so the reduction	
7	come down, their profitability would materially decline.		7	in their savings means less retirement. This is a real harm to	
8	Q. Could we see, please, Plaintiff's Exhibit 1741. In your		8	the consumers, to the class members.	
9	review of the record evidence, did you consider Plaintiff's		9	Q. Was increased profitability --	
10	Exhibit 1741, which states at the beginning: So the bad news		10	MR. MOSS: Objection. Move to strike, your Honor.	
11	is that this chats days are numbered. So once again clients		11	THE COURT: Overruled.	
12	can screw us. It will cost banks millions. All the fun taken		12	Q. Dr. Singer, was increased profitability a common goal among	
13	out of the industry and the profitability.		13	the defendants?	
14	Did you consider that chat in reaching your		14	A. Yes. The evidence points in the direction that the common	
15	conclusions?		15	goal across the defendants was to widen the spreads, to keep	
16	A. I did.		16	them wide, don't allow the spreads to get tight, so as to	
17	Q. From an economic perspective, Dr. Singer, is it reasonable		17	increase the profitability. And this common goal served to	
18	to infer that conduct that was profitable, if stopping that		18	bind the defendants across defendants and across the chatrooms,	
19	conduct would cost millions?		19	regardless of what currency pair they were trading.	
20	A. If I understand your question directly, it is reasonable to		20	Q. In the opening statement, defense counsel represented that	
21	infer that if conduct is profitable, then stopping that conduct		21	the defendants' agreements to widen spreads were isolated and	
22	will end up costing the bank and costing their profitability,		22	did not have a widespread effect. Do you agree?	
23	yes.		23	A. No, I disagree and for at least two reasons. The first, as	
24	Q. Now that you understood in reviewing that chat?		24	Mr. Robin explained, that all of these prices are	
25	A. Correct.		25	interconnected. And so, if there were, if there was a	

MADHFor4	Singer - Cross	Page 399	MADHFor4	Singer - Cross	Page 401
1	conspiracy, right?		1	bank makes to its customer, right? That's what you just	
2	A. Correct.		2	explained.	
3	Q. And so if we can go down to Mr. Popham-Holloway.		3	A. I think that's fair.	
4	Mr. Popham-Holloway says: How wide is 10 eur/Norwegian krone		4	Q. Right. And that information doesn't exist. It's not	
5	at mom?		5	captured. It doesn't exist in the record, right?	
6	I think that's at moment, right? At the moment, does		6	A. The only time it's captured is when you see in a chat	
7	that seem right?		7	transcript a bank telling you what he has -- a trader telling	
8	A. Yeah, Norwegian krone, at the moment, correct. Norwegian		8	you what he has quoted to a customer. Sometimes you see that,	
9	krone, yes.		9	but I'll leave it at that.	
10	Q. And Mr. Popham-Holloway is at Westpac, correct? We just		10	Q. And that's only captured if they're telling the truth,	
11	talked about that.		11	right?	
12	A. Sure.		12	A. Correct.	
13	Q. So Mr. Popham-Holloway, one of the non-conspirators,		13	Q. And not only are you not privy to the actual spread quotes,	
14	allegedly, is asking for a spread in one of these private		14	but the banks at the time, they were not privy to the spreads	
15	chatrooms, right?		15	that other banks were quoting to their customers, correct?	
16	A. Yes.		16	A. They're not privy to it. However, this is important.	
17	Q. And Mr. Clark responds with a range, 70 to 80, correct?		17	If -- if all the information that was being presented were	
18	A. Yes.		18	false, this was just a bunch of fake news being spread around	
19	Q. And Mr. Clark is from Citi, which is alleged to be in the		19	to divert, then you'd query why in the world were these guys	
20	conspiracy, right?		20	investing so much time in a chatroom for six-plus years?	
21	A. Correct.		21	The other point I'd make, too, that's important for	
22	Q. So here what you have is you have a supposed conspiracy		22	the jury is that if -- if someone said he was going to quote	
23	member sharing spread information with a supposed		23	wide in accordance to an agreement cut in a chatroom and he	
24	non-conspiracy member, right?		24	ended up cutting your legs out from under you, right, you would	
25	A. That is correct. Bringing a non-defendant bank into the		25	find out. You'd lose the client. So the notion that we	
MADHFor4	Singer - Cross	Page 400	MADHFor4	Singer - Cross	Page 402
1	ring, into the network, only means matters are worse for		1	shouldn't take any of this seriously, this is all just cheap	
2	consumers. This is just -- this is just a worse fact pattern		2	talk, is very hard for me as an economist to accept.	
3	for consumers. They're getting less competition.		3	Q. Dr. Singer, I think I asked you only whether or not it was	
4	Q. All right. Dr. Singer, let's look at another one.		4	true that the banks were not privy at the time to the spreads	
5	Dr. Singer, to cut through it, you know that 600 or so		5	that other banks were quoting to their customers, correct?	
6	of the chats that you've identified all have non-alleged		6	A. I -- I will grant you that once the conversation was	
7	conspirators in it, right?		7	hatched, once the -- the coordination had occurred inside of a	
8	A. Oh, it could be. It could be 600 out of the 2,400, but		8	chatroom, it would be -- it would be difficult for a given	
9	that wasn't the criteria to make it in, right? To make it in,		9	trader to see what his rival ultimately charged to a particular	
10	you had to have at least two defendant banks on a chat in which		10	client. They wouldn't get to see that. I will grant you that.	
11	banks were trying to get at the right price.		11	Q. But once the coordination occurred in the chatroom -- I	
12	Q. Dr. Singer, by the way, you've been assuming -- you assume		12	thought you weren't offering any opinions in this case about	
13	in your -- in your opinions, that a spread discussed in a		13	whether there was an agreement?	
14	chatroom was actually quoted to a customer, right?		14	A. I didn't say there was an agreement. I said whether they	
15	A. I don't think that I'm necessarily assuming that, no.		15	coordinated on spreads.	
16	Q. Because you don't know that because you don't get to		16	Q. Dr. Singer, you didn't perform any of your own empirical	
17	actually observe the spread that was quoted to the customer,		17	analysis to determine how frequently the banks shared spreads	
18	right?		18	in chatrooms, right?	
19	A. I think it's fair, just so the jury knows, many of these		19	A. Well, I think I would respectfully disagree. I think that	
20	quotes that occur, the conversations that are occurring between		20	these 2,400 records are all indicative of an attempt to	
21	the sales desk and the customer, is done by phone, and there's		21	coordinate on spreads, and I think in my initial report, as you	
22	no recording of the conversation there. So I will grant you		22	recall, in 2018, I did do a frequency analysis of the	
23	that I was not listening in, and I don't have a recording of		23	conveyance of competitively sensitive information in the	
24	those conversations.		24	chatroom. You probably recall that.	
25	Q. Because you're not privy to the quote that a particular		25	Q. And you're not offering that opinion anymore, right, sir?	

<p>MADHFor4 Singer - Cross Page 411</p> <p>1 A. Yes.</p> <p>2 Q. The factors include the trade size. That's one, right, the</p> <p>3 factors include the trade size?</p> <p>4 A. My screen went break.</p> <p>5 THE COURT: And we couldn't hear you for a moment.</p> <p>6 Let's back up a second. I think we lost power in your little</p> <p>7 box for a moment, so could you just back up.</p> <p>8 Q. Of course. Could you hear me now?</p> <p>9 A. I've always been able to hear you. I was can't -- I was</p> <p>10 reading along with you, and then my scene went blank. It's</p> <p>11 still bank.</p> <p>12 Q. So --</p> <p>13 A. There you go.</p> <p>14 Q. When you talk about the pricing of FX transactions, what</p> <p>15 are you talking about there?</p> <p>16 A. Well, you've only shown me paragraph 30. So to know the</p> <p>17 context, I think I'd want to know where this shows up in my</p> <p>18 report.</p> <p>19 But you're probably aware that in my initial report,</p> <p>20 the pricing model that I estimated was for a different price,</p> <p>21 which is -- which is the price on the inter-bank market.</p> <p>22 Q. Let's take a look here, Dr. Singer.</p> <p>23 You say: These include market-specific factors as</p> <p>24 well as factors -- market-specific factors -- let me read the</p> <p>25 whole thing -- including inter-bank price, trade size,</p>	<p>MADHFor4 Singer - Cross Page 413</p> <p>1 But I'll grant you -- maybe we can come to a happy</p> <p>2 place here -- that if the volatility is expected, if it's</p> <p>3 normal times, right, then I would submit that normal times is</p> <p>4 not going to affect the quote that's offered in the</p> <p>5 customer-dealer segment per Mr. Robin's testimony. If we're</p> <p>6 talking about abnormal times, that is, extreme volatility,</p> <p>7 there's some shock to the system, then that kind of volatility</p> <p>8 could affect the quote that's given to the customer in the</p> <p>9 dealer-customer segment.</p> <p>10 Q. Dr. Singer, do you stand by the statement in your report</p> <p>11 that the pricing is affected by trade size, volatility,</p> <p>12 liquidity, order type, customer volume, customer</p> <p>13 sophistication, and the likelihood of being informed? It's</p> <p>14 just a yes-or-no question.</p> <p>15 A. I stand by it with the caveat that the pricing here is</p> <p>16 likely the pricing in either the inter-bank segment or the</p> <p>17 customer service segment or both.</p> <p>18 Q. So let's talk, Dr. Singer -- we can put that down, please.</p> <p>19 Let's talk about spread stability for a moment. You</p> <p>20 talked a little bit about that on direct.</p> <p>21 You haven't performed any original quantitative</p> <p>22 analysis about the durability of spreads, right?</p> <p>23 A. I think that's fair. I think that my conclusions with</p> <p>24 regard to spread stability turn largely on what I call -- there</p> <p>25 are others' quantitative analysis that is not original</p>
<p>MADHFor4 Singer - Cross Page 412</p> <p>1 volatility, liquidity, and order type, as well as factors</p> <p>2 specific to the transaction type and the type of customer, such</p> <p>3 as customer volume, sophistication, and likelihood of being</p> <p>4 informed.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And it's true that FX prices depend on the trade size,</p> <p>8 right?</p> <p>9 A. The trade size would inform prices in both the inter-bank</p> <p>10 segment and the dealer-to-customer segment.</p> <p>11 Q. Let's focus on the dealer-to-customer segment.</p> <p>12 A. OK. Great.</p> <p>13 Q. The notional amount, the amount of the trade, that would</p> <p>14 affect prices, right?</p> <p>15 A. Yes.</p> <p>16 Q. Volatility, correct? Right? It's right here,</p> <p>17 Dr. Singer --</p> <p>18 A. Yeah, I know, but to be clear --</p> <p>19 Q. -- in your report.</p> <p>20 A. I know, and to be clear, my model that I estimate in my</p> <p>21 report was of the inter-bank segment. So I think what I'm</p> <p>22 doing when I'm splitting out that sentence is I'm listing</p> <p>23 out -- I would need more context, but it's potential that I'm</p> <p>24 listing out those factors that inform the EBS, that is, the</p> <p>25 pricing in the inter-bank.</p>	<p>MADHFor4 Singer - Cross Page 414</p> <p>1 empiricism or qualitative evidence, I'll grant you.</p> <p>2 So it's a long way of saying, yes, I don't think I did</p> <p>3 original empiricism on question of stability.</p> <p>4 Q. You're primarily relying on Mr. Robin for the proposition</p> <p>5 that spreads are stable, right?</p> <p>6 A. Not primarily. I definitely rely on Mr. Robin, but I</p> <p>7 wouldn't say primarily.</p> <p>8 I think that if you go into the various sections of</p> <p>9 my, you know, six-odd reports here, I cite many things. I know</p> <p>10 I cite chat transcripts that suggest that the spread in a given</p> <p>11 currency lasts a long time. I cite spread matrices. I cite</p> <p>12 deposition testimony on what spread matrices mean and how long</p> <p>13 they last. But certainly for the purposes of the jury and</p> <p>14 today, I would defer to Mr. Robin and I lean on Mr. Robin for</p> <p>15 the notion that the customer's expectation is that once they</p> <p>16 got that spread matrix, that it would last for the next</p> <p>17 quarter.</p> <p>18 Q. And, Dr. Singer, you did not see in the record, in your</p> <p>19 review of what the plaintiffs' counsel gave you, any evidence</p> <p>20 of traders discussing the fact that customer spreads actually</p> <p>21 changed by the minute or by the second, right?</p> <p>22 A. I might need to hear that back, but if it's have I ever</p> <p>23 seen record evidence that customer spreads changed by the</p> <p>24 second, I don't think I have, and that's not consistent with my</p> <p>25 understanding.</p>

MADHFor4	Singer - Cross	Page 415	MADHFor4	Singer - Cross	Page 417
1	Q. Right. You've never seen that.		1	Q. Let me try it again.	
2	So have you ever heard of Niall Condie?		2	When you said that you had never seen any record in	
3	A. Possible, but the name isn't --		3	the evidence -- any information, any record evidence that any	
4	Q. He's the head trader on Credit Suisse's FX spot desk, and		4	trader discussed the fact that spreads were changing by the	
5	he had that role for the entire alleged class period. Does		5	minute, by the second, had you seen this chat, yes or no?	
6	that refresh your recollection? Have you ever heard of him?		6	A. I had not seen the chat at that time.	
7	A. I don't -- I don't tend to focus on the names here, but I		7	Q. Thank you.	
8	probably came across his name.		8	Let's talk about competition, Dr. Singer. You	
9	Q. Sure. Let's take a look, if we can, please, at what's in		9	performed your analysis with two dueling hypotheses, the	
10	evidence as DTX 086.		10	competition hypothesis and the conspiracy hypothesis, right?	
11	If we can jump down to 15:35:55.		11	A. Correct.	
12	Mr. Condie says: No, no, no, there are no such things		12	Q. And I think you said on direct something along the lines of	
13	anymore as -- well, can we just jump up and get the -- get the		13	competition is the opposite of conspiracy, right?	
14	question right above that, the two lines right before that,		14	A. Yes.	
15	please.		15	Q. And the reason they're dueling, competition and conspiracy,	
16	All right. So Mr. Menzl at Credit Suisse, he's		16	is that they can't both be true, right?	
17	saying: Yeah, I think I find it very difficult now to give any		17	A. They cannot both be true, that's correct.	
18	fix spreadsheets.		18	Q. And it's a pretty fair statement that competition is	
19	Do you see that?		19	inconsistent with a conspiracy, right?	
20	A. Yes. Just note, for the record, this looks like		20	A. I will grant -- I will agree with you here that at a given	
21	October 20, 2008, the beginning of the great recession.		21	moment in time, that you can't have it both ways. Either firms	
22	Q. Thanks, Dr. Singer.		22	are coordinating explicitly in the pricing they're charging the	
23	Do you see that it says Markus Menzl says: Yeah, I		23	consumers or they're competing and choosing prices based on	
24	think I find it very difficult now to give -- to give any --		24	their own unilateral interest. You can't have both at the same	
25	give any fix spreadsheets.		25	time.	
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1	Do you see that?		1	Q. And if the banks were acting competitively, then you would	
2	A. Yes, this would be a rough time. If a customer was		2	have the opposite of a cartel, right, the opposite of a cartel?	
3	demanding you to commit to a spread for three months and the		3	A. If the banks were choosing their spreads unilaterally,	
4	world appears to be falling apart, it would be difficult under		4	without coordinating with their rivals, then the spreads would	
5	those extreme circumstances to offer a customer a spread		5	fall down to the competitive levels, yes.	
6	matrix.		6	Q. And you would have the opposite of a cartel, right?	
7	Q. And then Mr. Condie writes: No, no, no, there are no such		7	A. At least for that moment in time you would absolutely have	
8	things as spread matrix anymore.		8	the opposite of a cartel.	
9	Do you see that?		9	Q. And if there weren't a conspiracy, the banks would have	
10	A. Yes, consistent with my understanding what was happening		10	been forced to compete for customers by offering narrower	
11	with the world at that time.		11	spreads, right?	
12	Q. Then Mr. Condie says: I tell my guys they are to price		12	A. In the absence of the alleged agreement here, competition	
13	liquidity accordingly, and that changes every hour, minute,		13	to an economist would have been more intense. It would be more	
14	second.		14	cutthroat. You wouldn't have any floors below which you get in	
15	Dr. Singer, had you seen this chat?		15	trouble by going below.	
16	A. I don't know if I've -- oh, I don't know if I had seen the		16	Q. You agree that in the absence of the alleged conspiracy,	
17	chat, but the chat is consistent with what Mr. Robin is saying,		17	the banks would have been forced to compete for customers by	
18	which is that under normal circumstances, the prices that are		18	offering narrower spreads, right?	
19	quoted in the spread matrix are good for the next quarter.		19	A. Yes.	
20	That's an important caveat. What he's telling you is that when		20	Q. And it's also true that if one bank were repeatedly	
21	the world appears to be in doom, when we're entering in -- I		21	undercutting the cartel price, you could draw the conclusion	
22	remember where I was in October of 2008. When the world looks		22	that that bank was not in the cartel, right?	
23	like it's about to implode, everything goes out the window, and		23	A. I would need you to fill out a little more of the	
24	we can no longer commit to our customers that over the next		24	hypothetical.	
25	three months, that the spread matrix is going to be good.		25	So if you would allow me to just assume that we have	

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<p>MAEHFor1 Page 444</p> <p>1 I think that, therefore, covers the people who are 2 former Credit Suisse employees, as well as people who are 3 former employees of other banks. 4 Then the last paragraph is basically the same as what 5 you suggested. I've modified it a little bit: 6 "I caution you that you may not find that the 7 plaintiffs have proven their claims against Credit Suisse based 8 solely on the negative inference, if any, you draw from the 9 fact that a witness or multiple witnesses," and then I will 10 say, "have refused to testify based on their Fifth Amendment 11 privilege. You may consider these negative inferences, but 12 without more, they are not sufficient to prove participation in 13 a conspiracy to restrain trade." 14 So that is my plan. Anybody have any issues with 15 that? 16 MR. HALL: Your Honor, obviously, we'll reserve on the 17 question of what it means to be associated, and we'll speak to 18 that when we see it. 19 THE COURT: OK. Great. 20 Then I have the plaintiffs' two requests which are 21 based on the argument that Credit Suisse has opened the door to 22 evidence that was not previously allowed. The first one is the 23 argument that Credit Suisse opened the door in its opening 24 statement by injecting the fact that Credit Suisse had sued 25 other banks and not just the plaintiff, and the plaintiffs are</p>	<p>MAEHFor1 Page 446</p> <p>1 in case you intend to make it a big part of your defense that 2 Credit Suisse was never charged, never prosecuted, and was 3 blessed by the regulators, then I would allow the plaintiffs at 4 that point in a rebuttal case to introduce that. I presume you 5 will not be doing that. But in any event, I'm reserving on 6 that issue. 7 I think that's it for rulings that you're waiting for 8 from me. Are there other issues that you'd like to raise? 9 MR. HALL: Your Honor, just one ministerial thing. 10 The parties have agreed that DTX 2011 and DTX 2012 can be 11 admitted into evidence, and the Court has an email from my 12 colleague, Mr. Wiley, October 13, to that effect. 13 THE COURT: I presume there's no objection, is that 14 right? 15 MR. BURKE: No objection, your Honor. 16 THE COURT: All right. They are admitted. 17 (Defendant's Exhibits 2011 and 2012 received in 18 evidence) 19 THE COURT: Are there any other plaintiffs' exhibits 20 that need to be either corrected or admitted? I know you're 21 getting close to the end of your case. 22 MR. BURKE: Yes, your Honor. 23 THE COURT: OK. Yes. 24 MR. WASHER: One issue, your Honor, just with respect 25 to the DFS order. Obviously, we're mindful --</p>
<p>MAEHFor1 Page 445</p> <p>1 asking that they be allowed to tell the jury, or that the jury 2 be informed, that the other 15 banks settled or resolved their 3 disputes with the class. 4 I'm not going to grant that request. In other words, 5 it is denied. I think that it's been clear from the beginning 6 that there were 15 other banks, and I told the jury then not to 7 speculate about them or what their status is. And I identified 8 them in voir dire, so it's not secret that they exist. So I am 9 not going to tell the jury that the other 15 banks settled with 10 the defendant. 11 The second issue, I think, is a more difficult and 12 troubling issue. The plaintiffs point out statements by 13 defense counsel that "you'll hear no evidence that Credit 14 Suisse was prosecuted," and I think there have been other 15 references besides the opening statement, or at least implied 16 arguments about the fact that Credit Suisse wasn't prosecuted, 17 Credit Suisse wasn't charged. 18 The plaintiffs are asking that the New York Department 19 of Financial Services' order and consent decree be permitted to 20 be introduced to allay any misimpression that somehow Credit 21 Suisse's conduct was blessed by the regulators, and that at 22 this point strikes me as too strong. 23 So my decision at the moment is to reserve on it until 24 I hear the Credit Suisse case. If Credit Suisse intends to 25 make it -- and I presume you won't in light of this ruling, but</p>	<p>MAEHFor1 Page 447</p> <p>1 THE COURT: Could you speak into the mic, please. You 2 could pick it up or bring it close. 3 MR. WASHER: There's no good way to do this. So 4 mindful of your Honor's reserving on this, just, obviously, we 5 will attempt to stay on the right side of the line with respect 6 to the issue. It is possible that plaintiffs at some point 7 will be making the argument that -- they may raise the issue of 8 whether Credit Suisse was prosecuted or investigated by 9 regulators, and, obviously, that would present us with a 10 difficult choice. So I suppose we can talk about that if and 11 when that comes up in connection with the plaintiffs' case or 12 arguments. 13 The only other thing I'd ask your Honor to think about 14 in the meantime is whether the proper remedy for an improper 15 reference to no criminal prosecution would be the admission of 16 the DFS order because, obviously, the DFS is not a criminal -- 17 they don't have criminal authority. So -- 18 THE COURT: And frankly, there's a lot in it that has 19 nothing to do with issues in this case, but -- 20 MR. WASHER: Exactly. 21 THE COURT: -- some kind of disclosure about the DFS 22 order and that it included conduct relating to spreads might be 23 an appropriate remedy if we were to go in that direction. 24 MR. WASHER: Yeah. I think if somehow people were to 25 cross the line and talk about no criminal prosecution, I think</p>

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<p>1 the cases that plaintiffs have cited, for example, suggest that</p> <p>2 the proper remedy would be a limiting instruction, at most, to</p> <p>3 suggest that the standard of proof in a criminal case is</p> <p>4 different. So you shouldn't read anything into the fact that</p> <p>5 they weren't prosecuted.</p> <p>6 If, of course, we raise the question of no regulatory</p> <p>7 enforcement against Credit Suisse, that's the kind of thing</p> <p>8 that we think is more likely to implicate the DFS order and all</p> <p>9 of that. So I just ask your Honor to think about the</p> <p>10 distinction.</p> <p>11 THE COURT: I understand your point, particularly</p> <p>12 about the differing burdens of proof. I understand the point.</p> <p>13 I'm not sure the jury will make such fine distinctions, but I</p> <p>14 understand your argument. Let's see how it all develops.</p> <p>15 MR. WASHER: Let's hope we don't go there.</p> <p>16 MS. BERNAY: Your Honor, good morning. Alexandra</p> <p>17 Bernay. Nice to see you.</p> <p>18 I wanted to address a couple points based on what</p> <p>19 Mr. Washer said. One is that defense counsel did elicit</p> <p>20 testimony that Mr. Hatton was not indicted, again raising some</p> <p>21 of these criminal issues. I would also -- and we put it in a</p> <p>22 footnote because we don't intend ever to try to get in evidence</p> <p>23 regarding foreign regulatory actions. But, frankly, some of</p> <p>24 the actions in both South Africa that specifically name</p> <p>25 Mr. Hatton, for example, and then the European commission,</p>		<p>1 (Jury present)</p> <p>2 THE COURT: Good morning, everyone. Thank you for</p> <p>3 being prompt. It looks like lousy weather today, so a good day</p> <p>4 to be in here.</p> <p>5 We were in the midst of testimony from Professor</p> <p>6 Singer. Could we proceed.</p> <p>7 MR. MOSS: Thank you, your Honor.</p> <p>8 THE COURT: You recall you're still under oath?</p> <p>9 THE WITNESS: Yes.</p> <p>10 THE COURT: OK. Thank you.</p> <p>11 HAL SINGER, resumed.</p> <p>12 CROSS-EXAMINATION CONTINUED</p> <p>13 BY MR. MOSS:</p> <p>14 Q. Good morning, Dr. Singer. Can you hear me OK?</p> <p>15 A. You're fine. Good morning.</p> <p>16 Q. Thank you.</p> <p>17 Dr. Singer, we had a long day yesterday. Just going</p> <p>18 to cover one more topic, and that's the regression. You recall</p> <p>19 we touched on that a little bit yesterday, right?</p> <p>20 A. I don't think we did, but it's your show. You ask me</p> <p>21 whatever you want, I guess.</p> <p>22 Q. All right. Thanks. Thank you, Dr. Singer.</p> <p>23 You know what a regression is, right?</p> <p>24 MR. HAUSFELD: Objection, your Honor. Beyond the</p> <p>25 scope of direct.</p>		
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<p>1 which, for all intents and purposes, really is both the</p> <p>2 criminal and civil because they don't even make that</p> <p>3 distinction. So, your Honor, while we appreciate what you're</p> <p>4 saying, and we'll wait and see, we do think there is a way to</p> <p>5 present at least the relevant portions of the DFS should this</p> <p>6 come up again or, at a very minimum, a limiting instruction.</p> <p>7 THE COURT: OK.</p> <p>8 MS. BERNAY: Thank you.</p> <p>9 THE COURT: Thank you.</p> <p>10 All right. We have a few minutes, so let's just break</p> <p>11 until a couple minutes before 10:00.</p> <p>12 (Recess)</p> <p>13 THE COURT: Also on the plaintiffs' side, you'll tell</p> <p>14 me when we need the Fifth Amendment instruction, right?</p> <p>15 MR. BURKE: Yes, your Honor.</p> <p>16 THE COURT: Thank you.</p> <p>17 (Continued on next page)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>		<p>1 THE COURT: It sounds like it's beyond the scope of</p> <p>2 direct, but if you want to ask a foundational question that</p> <p>3 makes it clear that it's within the scope, I'll allow it.</p> <p>4 MR. MOSS: Well, Dr. Singer testified yesterday -- I</p> <p>5 can find the transcript note -- that he prepared a regression</p> <p>6 in this case.</p> <p>7 THE COURT: Why don't you just ask him whether it's</p> <p>8 true that he testified that he prepared a regression in this</p> <p>9 case, and we'll take it from there.</p> <p>10 MR. HAUSFELD: Your Honor, I apologize, but I don't</p> <p>11 recall that. If we could get a citation to the page and line.</p> <p>12 MR. MOSS: Sure. We can find it, your Honor.</p> <p>13 THE COURT: All right. The word "regression" did not</p> <p>14 come up in a word search we just did.</p> <p>15 I recall there was some questioning, and he said he</p> <p>16 was not testifying on it -- this was actually on cross -- that</p> <p>17 he was not testifying about certain subjects.</p> <p>18 MR. MOSS: Yes, your Honor. There was a question and</p> <p>19 answer -- let me get the cite of the trial transcript. It's</p> <p>20 page 412 of the trial transcript, and I asked Dr. Singer:</p> <p>21 "Volatility, correct? It's right here, Dr. Singer."</p> <p>22 He said: Yeah, I know, but to be clear -- he said:</p> <p>23 "I know, and to be clear, my model that I estimate in my report</p> <p>24 was of the inter-bank segment." And that's the model that he's</p> <p>25 referring to, your Honor.</p>		

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1	THE COURT: If you want to ask -- so why don't you		1	arbitrary level, there must be a conspiracy. That is not the	
2	follow up on that precise question.		2	inference that I drew from that exercise.	
3	BY MR. MOSS:		3	Q. And, Dr. Singer, the reason you didn't do that is because,	
4	Q. Dr. Singer, you created a model in your report regarding		4	in your opinion, what matters in this case is whether spreads	
5	spreads in the inter-bank segment, is that correct?		5	were or were not inflated by the alleged conspiracy, correct?	
6	A. Yes.		6	MR. HAUSFELD: Objection, your Honor. Beyond the	
7	Q. And that model is referred to as a regression model, is		7	scope of the issue in the trial. The issue in the trial is	
8	that correct?		8	just whether there was a conspiracy and whether Credit Suisse	
9	A. Yes.		9	participated in the conspiracy.	
10	Q. And a regression model is a type of econometric analysis,		10	THE COURT: Sustained.	
11	is that correct?		11	Q. Dr. Singer, you've written in this case that the relevant	
12	A. Yes.		12	question is what happened to spreads. That that is the	
13	Q. And it's basically a statistical method for trying to		13	relevant question to determine, whether or not the evidence is	
14	figure out the effect that one thing has on another,		14	consistent or not consistent with a conspiracy. You've	
15	controlling for other variables, correct?		15	repeatedly taken that position, correct?	
16	A. Yes.		16	A. I have taken that position with respect to the question of	
17	Q. And, Dr. Singer, economists like yourself routinely run		17	proving common impact. My first report in this case, as you	
18	regressions, correct?		18	are aware, was a class certification report where my assignment	
19	A. Yes.		19	was to demonstrate that impact could be proven with common	
20	Q. And, in fact, Dr. Singer, that's especially true in		20	methods and evidence. I believe that question is different	
21	antitrust cases, isn't it?		21	from the question that is being resolved in this proceeding.	
22	A. Yes.		22	Q. And the question that's being resolved in this proceeding,	
23	Q. And, Dr. Singer, how many times have you yourself conducted		23	you address that in your rebuttal report from July of 2022,	
24	a regression analysis in your career as a professional expert		24	correct?	
25	witness?		25	A. It's possible that I do. I've written so many reports that	
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1	A. Many, many times.		1	it's possible that I address what's relevant. I'd have to see	
2	Q. Can you give us a ballpark? You said you testified over		2	what I said in the July report.	
3	100 times. About how many times did you offer a regression?		3	Q. That was your most recent report. It was just from a few	
4	A. I don't have a good estimate sitting here, but it comes up		4	months ago, right?	
5	a lot.		5	A. OK.	
6	Q. And that includes in this case where you prepared your		6	Q. Why don't we take a look at that report. We don't have to	
7	model that we just talked about, right?		7	publish it to the jury, but we can put it up on the screen	
8	A. Correct.		8	here.	
9	Q. And in this case, you ran a regression that tried to		9	This is your July 2002 report. You see it references	
10	determine the effect on spreads of the alleged conspiracy		10	Dr. Mathur. You know it's your July 2002 report, right?	
11	during the six-year alleged conspiracy period, correct, sir?		11	A. Yes.	
12	MR. HAUSFELD: Your Honor, if I may again, it's beyond		12	Q. And what you say in your July 2002 report is: "Finally,	
13	the scope of the direct. If the question came up in in		13	the question of whether spreads were discussed with sufficient	
14	cross-examination, he answered the question in the		14	frequency relative to some arbitrary threshold to make the	
15	cross-examination, but it has nothing to do with the testimony		15	alleged conspiracy viable is a distraction" -- and if we could	
16	that the plaintiffs presented in support of their case.		16	pull up the next sentence also, Armando, please -- "is a	
17	THE COURT: It's sustained. The testimony that was		17	distraction. What matters is that spreads were, in fact,	
18	referenced was in the cross-examination.		18	inflated by the challenged conduct. This is the relevant	
19	Q. Dr. Singer, do you agree that the question of whether		19	question."	
20	spreads were discussed with sufficient frequency relative to		20	Did I read that correctly?	
21	some arbitrary threshold to make the alleged conspiracy viable		21	A. Read it correctly.	
22	is a distraction?		22	Q. Do you still stand by that statement that you made a few	
23	A. That's consistent with what I think I testified to		23	months ago in your July report?	
24	yesterday, that I didn't attach -- I didn't apply the 2,400		24	A. Stand by the statement with the proper understanding that	
25	that came back to a level and say because it's above some		25	it was the debate I was having with your expert, which is for	

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1	the purpose of proving impact, what matters is proof that the		1	STEVEN YANEZ,	
2	spreads widened. I think that the proceeding that we're having		2	called as a witness by the Defendant,	
3	here is a related but different question.		3	having been duly sworn, testified as follows:	
4	Q. Dr. Singer, this report was from July 2022, correct?		4	MR. HALL: May I proceed, your Honor?	
5	A. Correct.		5	THE COURT: You may.	
6	Q. And in this proceeding, you are not offering any opinion,		6	DIRECT EXAMINATION	
7	you didn't tell the jury anything about what happened to		7	BY MR. HALL:	
8	spreads and whether or not they were, in fact, inflated, even		8	Q. Good morning, Mr. Yanez.	
9	though you said a few months ago that that is the relevant		9	A. Good morning.	
10	question, right?		10	Q. Mr. Yanez, are you currently employed?	
11	A. I --		11	A. I'm retired.	
12	Q. Yes-or-no question, Dr. Singer.		12	Q. When did you retire, sir?	
13	A. I did not -- I did not testify in my direct on the issue of		13	A. 2011, June.	
14	the fact of injury, that is correct.		14	Q. Where did you work immediately before you retired?	
15	Q. And you had prepared an analysis. You spent four years		15	A. I worked at Credit Suisse.	
16	working on an analysis to try to show that spreads were wider		16	Q. Would you mind explaining to the jury in brief your career	
17	during the alleged conspiracy period?		17	history.	
18	MR. HAUSFELD: Objection, your Honor.		18	A. Sure. I joined Credit Suisse in 1993 as a trading --	
19	THE COURT: Sustained.		19	trading manager. I kind of worked my way up to running	
20	Q. And you didn't tell the jury that?		20	different desks. And in 2008 I was asked to run global foreign	
21	THE COURT: Sustained.		21	exchange along with the business that I was running	
22	MR. MOSS: Withdrawn.		22	concurrently.	
23	No further questions.		23	Q. When did you join Credit Suisse?	
24	MR. HAUSFELD: Thank you, your Honor.		24	A. 1993.	
25	THE COURT: Ladies and gentlemen, just to remind you		25	Q. What were you doing immediately before the position you	
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1	that the questions of the lawyers is not evidence unless the		1	took on in 2008?	
2	witness adopts it or agrees with it, only then is it evidence.		2	A. I was a trading manager at another firm.	
3	OK. You're excused. Thank you very much.		3	Q. And the position you took on at Credit Suisse in 2008,	
4	(Witness excused)		4	immediately before that, what were you doing at Credit Suisse?	
5	THE COURT: Plaintiffs may call their next witness.		5	A. I'm sorry. You're saying before 2008?	
6	MR. HALL: Your Honor, we've agreed, if it's		6	Q. Yes, that's right.	
7	acceptable to the Court, to present a witness out of order to		7	A. I was running short-term interest rate trading globally.	
8	accommodate the witness' schedule. So this will actually be a		8	Q. When did you first have a role in Credit Suisse's FX spot	
9	defendant's witness, if that's acceptable.		9	business, Mr. Yanez?	
10	THE COURT: All right. Let me just explain to the		10	A. It was roughly June of 2008.	
11	jury.		11	Q. What role did you take on at that time?	
12	Ordinarily in the trial the plaintiffs put all of		12	A. I took on the role of global product head.	
13	their witnesses on first and they rest, and then the defendants		13	Q. How did it come to pass that you took that role?	
14	put all their witnesses on next. I understand from what I just		14	A. I was asked by my current boss who was running fixed income	
15	heard that there is a witness who has scheduling issues. So to		15	if I would like to take that on as well as keep my role running	
16	accommodate that witness, the parties have agreed that that		16	short-term interest rates, Gael de Boissard was my boss.	
17	person, who is a defense witness, can go out of turn. So we'll		17	Q. Did Mr. de Boissard say anything to you about why he was	
18	hear from whoever that is now.		18	asking you to take on the new role?	
19	Who is it?		19	A. Yes. He thought I could be effective growing the business.	
20	MR. HALL: Your Honor, we'll call Steven Yanez.		20	Kind of moving it from a somewhat irrelevant player to a	
21	THE COURT: Thank you.		21	relevant player.	
22	MR. HALL: May I approach, your Honor?		22	Q. What was your view of Credit Suisse's FX business when you	
23	THE COURT: You may.		23	first took over as head of the business back in 2008?	
24	Are the two binders the same?		24	A. It was more of a niche business. They weren't competing	
25	MR. HALL: They are.		25	kind of full stop against the biggest banks.	

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<p>MAEHFor1 Yanez - Direct Page 468</p> <p>1 Do you see that, Mr. Yanez?</p> <p>2 A. I do.</p> <p>3 Q. What is that referring to, "taking existing market share</p> <p>4 from competitors"?</p> <p>5 A. Again, going to back to the pie concept, competitors had a</p> <p>6 certain part of the pie, and we needed to take more of it.</p> <p>7 Q. And was that what you were trying to accomplish back at</p> <p>8 this time in 2010, Mr. Yanez, in your business?</p> <p>9 A. It was.</p> <p>10 Q. Was that mandate handed down to your employees by you,</p> <p>11 Mr. Yanez?</p> <p>12 A. It most certainly was.</p> <p>13 Q. If we look a little further down this same page under -- on</p> <p>14 the second bullet under competitive landscape, down toward the</p> <p>15 bottom, do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. There's a bullet here says, "CS believes it can take some</p> <p>18 market share from DB. DB is watching CS and its new strategy</p> <p>19 very closely."</p> <p>20 Do you see that?</p> <p>21 A. I do.</p> <p>22 Q. What was DB refer to here?</p> <p>23 A. That's Deutsche Bank.</p> <p>24 Q. Why was Deutsche Bank particularly relevant at this time,</p> <p>25 Mr. Yanez?</p>	<p>MAEHFor1 Yanez - Direct Page 470</p> <p>1 standard where they actually speak to clients, they ask clients</p> <p>2 who trades, why they trade, and that kind of thing. And that's</p> <p>3 where we measure our market share as a percentage.</p> <p>4 Q. We'd like to put up an exhibit that's been preadmitted,</p> <p>5 DTX 2011.</p> <p>6 Mr. Yanez, I'll explain to you that this is an exhibit</p> <p>7 that summarizes the Euromoney surveys you've just been</p> <p>8 referring to in CS's U.S. market share for the year 2008</p> <p>9 through '13.</p> <p>10 I know you left the bank in 2011, is that right?</p> <p>11 A. That's correct.</p> <p>12 Q. Could you just briefly explain to the jury in terms of what</p> <p>13 transpired in terms of CS's U.S. market share between 2008 and</p> <p>14 the time you left in 2011.</p> <p>15 A. Certainly. Well, if you look to the 2008 part, which shows</p> <p>16 that we had less than 1 percent market share, during our growth</p> <p>17 period where we kind of put this mission into play, we grew it</p> <p>18 to, I guess when I left, somewhere -- somewhere around</p> <p>19 4 percent, so roughly four times. Continued slightly higher</p> <p>20 after I left.</p> <p>21 Q. Let's look at one more exhibit, which is DTX 2012.</p> <p>22 Again, Mr. Yanez, in a different format. Now we're</p> <p>23 looking at U.S. market share data from the Euromoney surveys</p> <p>24 2008 through 2013. You can focus on the part ending in 2011,</p> <p>25 which is when you left the bank, is that right?</p>
<p>MAEHFor1 Yanez - Direct Page 469</p> <p>1 A. They had the largest market share in the industry.</p> <p>2 Q. When talking about taking market share from DB, what is</p> <p>3 that a reference to?</p> <p>4 A. It's part again of what I was saying. DB had a larger</p> <p>5 market share than we had, and we wanted to take part of their</p> <p>6 market share.</p> <p>7 Q. How did you intend to go about doing that, Mr. Yanez?</p> <p>8 A. By being competitive all the time on anything our clients</p> <p>9 were looking for.</p> <p>10 Q. Mr. Yanez, we've looked at a few documents here about</p> <p>11 Credit Suisse's plan to win FX market share from its</p> <p>12 competitors. Could you speak to whether that effort was</p> <p>13 successful while you were at Credit Suisse.</p> <p>14 A. Sure. So between 2008 and 2011 when I retired, we roughly</p> <p>15 grew our market share by just short of four times, or</p> <p>16 400 percent, so we were quite successful.</p> <p>17 Q. And how were you as successful as you were, Mr. Yanez?</p> <p>18 A. Well, we had a mission, and everyone knew the mission. So</p> <p>19 we were super, super tight on pricing. We had the ability to</p> <p>20 take any risk that clients wanted to put off on us. We were</p> <p>21 just providing a good service at a very, very sharp price.</p> <p>22 Q. You mentioned growing your market share and becoming a top</p> <p>23 five bank. What measure are you using to determine whether</p> <p>24 you're a top five bank?</p> <p>25 A. The measure is the Euromoney poll, which is the industry</p>	<p>MAEHFor1 Yanez - Direct Page 471</p> <p>1 A. That's right.</p> <p>2 Q. So we see a few things, Mr. Yanez, but maybe you can just</p> <p>3 speak to the market share percentages themselves first and</p> <p>4 orient the jury to what we're looking at between 2008 and 2011.</p> <p>5 A. Sure. So what we're looking at is basically the same thing</p> <p>6 as we looked at in the last slide where it shows we had just</p> <p>7 under 1 percent in 2008. We kind of grew it consistently</p> <p>8 through till 2012/'13. Market share is a measure of the</p> <p>9 overall amount of trading that you do relative to the overall</p> <p>10 pie in the market, the total amount traded.</p> <p>11 Q. And we had spoken a little bit earlier, Mr. Yanez, about</p> <p>12 Deutsche Bank in particular. Could you find Deutsche Bank on</p> <p>13 this chart from the time when you were at the bank.</p> <p>14 A. Yes. You don't usually have to look very far. Deutsche</p> <p>15 Bank is always number one or two.</p> <p>16 Q. So if we look at 2008, we see here Deutsche Bank with</p> <p>17 25 percent market share as compared to CS's 0.95 percent, is</p> <p>18 that right?</p> <p>19 A. That's correct.</p> <p>20 Q. What had happened by 2011 to Deutsche Bank's market share?</p> <p>21 A. Well, they still were at the top of the charts, but they</p> <p>22 had given up a lot of market share to the industry.</p> <p>23 Q. When you say they had given it up to the industry, what do</p> <p>24 you mean, Mr. Yanez?</p> <p>25 A. Well, if you look at everybody below Deutsche Bank, for the</p>

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<p>MAEHFor1 Yanez - Direct Page 476</p> <p>1 Q. What do you think about this comment made by Mr. Lawes as 2 you sit here and read it today, Mr. Yanez? 3 A. It's pretty stupid. I mean, it's not -- he's in no way a 4 position -- he was a junior trader -- to agree with anything 5 with anybody. It's bluster. It's -- what you'd see in a 6 trading world is often folks talk a big game to make themselves 7 feel, like, relevant in the industry, but it's just a stupid 8 statement. 9 Q. Mr. Lawes, do you see he's referring to any particular 10 currency here, Mr. Yanez? Take your time with the document if 11 you need to. 12 A. Can you just make that a little bigger? Sorry. 13 Q. If that helps you, move this up a little bit. 14 A. Oh, yeah, they're talking about the New Zealand dollar. 15 Q. How do you know? 16 A. It says "kiwi." Kiwi's a short name for New Zealand 17 dollar. 18 Q. All right. So you see where Mr. Parikh says: Jules, 19 what's the spread today in 50 kiwi? 20 A. Yes. 21 Q. And to you, you know that the kiwi refers to New Zealand 22 dollar, that right? 23 A. That's right. 24 Q. Was Mr. Lawes in a position to affect spreads in the New 25 Zealand dollar in January 2008?</p>	<p>MAEHFor1 Yanez - Direct Page 478</p> <p>1 relevant to the client is where your bid is, where you're 2 willing to buy, or where your offer is, where you're willing to 3 sell. That's the only thing relevant. 4 The price is when you make your 50-55, whatever the 5 price is, the spread is five points. But, again, the spread 6 itself is rendered irrelevant if -- if you show a 50-55 market 7 and a competitor shows 51-60, which is a much wider spread, if 8 he's looking for the bid, he's going to trade with the 9 competitor, period. He doesn't care what your spread was. He 10 cares what the best deal was. 11 Q. Why would a customer ever ask you for a two-way price if 12 the customer knows which side she wants to be on? 13 A. To keep you honest. Honestly, it's an indication of -- he 14 doesn't want to give all the information necessarily to the 15 bank. So he wants to make sure that you quote something. He 16 knows inherently you're going to quote a market that's one way 17 or the other based on the risk in your book and things like 18 that, but to keep you honest, they ask for a two-way price. 19 Q. I understand that. 20 How did what spreads you quoted or what prices you 21 made, two-way prices you made and your traders made, relate to 22 what you were speaking about before in terms of market share, 23 Mr. Yanez? 24 A. Well, again, it comes back to if you're going to take 25 market share, one of the -- I'll call it the easiest way is</p>
<p>MAEHFor1 Yanez - Direct Page 477</p> <p>1 A. Not at all. 2 Q. Why not? 3 A. Well, he was, again, a junior trader trading what would be 4 considered a secondary currency, which is currency you don't 5 focus on. So he had a tiny, tiny market share. He certainly 6 would not be in a position to drive spreads in the industry for 7 sure. 8 Q. Well, he could have quoted somebody wide, couldn't he, 9 Mr. Yanez? 10 A. He can quote whatever he wants. He just wouldn't be in the 11 business. 12 Q. What do you mean by that? 13 A. If you're not -- again, a client trades on one side of a 14 market. They're either looking for a bid or an offer, which 15 makes a spread. The spread itself is not relevant. The price 16 is what matters. So if your price is not competitive, you're 17 not going to win the trade with the client. Client will trade 18 somewhere else. 19 Q. I'm a little confused, Mr. Yanez. Could you just clear 20 this up. You said the spread and the price are not the same 21 thing. Could you just try to explain to us why they're not the 22 same thing. 23 A. Sure. Spread is a representation of liquidity in the 24 market. So as a trader, you might make a spread that is, for 25 argument's sake, five points wide, or whatever, but what's</p>	<p>MAEHFor1 Yanez - Direct Page 479</p> <p>1 just to have the best price on the market. So traders are 2 mandated to at all times try to offer the best price on the 3 market. 4 Q. Now, we just looked at a chat involving Mr. Lawes in a 5 Bloomberg chatrooms. Did you have a view, Mr. Yanez, while you 6 were running the FX spot business at Credit Suisse, about 7 traders talking to traders at other banks? 8 A. Sure. I mean, I didn't love it. It wasn't where we came 9 from. I came from the interest rate side. But I recognized 10 that it was a valuable tool to gain kind of market color, find 11 out what's going on, to build relationships. Because banks 12 need each other to exit liquidity, to get exit position risk, 13 so you have to have relationships. So it was valuable from 14 that perspective. 15 Q. Do you have a view, Mr. Yanez, about traders discussing 16 spreads, in particular, in chatrooms? 17 A. If the discussion is a generic conversation meaning, you 18 know, kind of what do you think the market's quoting on X 19 amount, then I'm OK with that. If it's anything more than 20 that, then you're kind of bumping against the line. 21 Q. All right. Let's look at a chat that the plaintiffs have 22 on their exhibit list. It's been preadmitted as Plaintiffs' 23 963-A. 24 Can we look at that one, please. We can look at the 25 line at 16:15:51 and down to 21:06.</p>

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<p>MAEHFor1 Yanez - Direct Page 480</p> <p>1 A. OK.</p> <p>2 Q. We see here we've got a trader from Credit Suisse,</p> <p>3 Mr. Piscatelli. Do you see that?</p> <p>4 A. Yes, I do.</p> <p>5 Q. Do you know Mr. Piscatelli?</p> <p>6 A. I'm sorry?</p> <p>7 Q. You know Mr. Piscatelli?</p> <p>8 A. I do.</p> <p>9 Q. And another trader from Barclays named Ashley Honey. Do</p> <p>10 you see that?</p> <p>11 A. I do.</p> <p>12 Q. Ashley Honey at Barclays says in this chat: What spread</p> <p>13 would you show in 100 million euro/CHF.</p> <p>14 That's euro/Swiss, is that right?</p> <p>15 A. That's right.</p> <p>16 Q. And Mr. Piscatelli responds: Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. It's 8 in the morning; 10 in the afternoon.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. And Ashley Honey says: Thanks.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. What's your reaction, as you sit here today, to a chat like</p> <p>25 this, Mr. Yanez?</p>	<p>MAEHFor1 Yanez - Direct Page 482</p> <p>1 Q. Why would traders, though, gather information like this, in</p> <p>2 your experience, Mr. Yanez?</p> <p>3 A. Well, I think there's a limited amount of transparency. So</p> <p>4 the trader's always guessing what the real liquidity is like</p> <p>5 out there. So they're using this to kind of gauge maybe he's</p> <p>6 pricing this -- this gentleman from Morgan Stanley might have</p> <p>7 been pricing something. It could be a whole host of thing, but</p> <p>8 he needs to try to gather kind of liquidity information.</p> <p>9 Q. He needs to gather it to form his own view, is that what</p> <p>10 you mean?</p> <p>11 A. Yes.</p> <p>12 Q. We looked at the Euromoney chart earlier listing all those</p> <p>13 banks. I think it was DTX 2012.</p> <p>14 We could put it up for just a minute.</p> <p>15 This is for each of these years, 30 banks listed, is</p> <p>16 that right, Mr. Yanez?</p> <p>17 A. That's right.</p> <p>18 Q. Do these banks offer FX trading to clients?</p> <p>19 A. They do.</p> <p>20 Q. Were you competing with all these banks, Mr. Yanez?</p> <p>21 A. In some form, yes.</p> <p>22 Q. What do you mean "in some form"?</p> <p>23 A. There might be some smaller banks down at the bottom that</p> <p>24 don't all full-service, so they may not be -- we may not be</p> <p>25 competing with them in euro/Swiss, let's say.</p>
<p>MAEHFor1 Yanez - Direct Page 481</p> <p>1 A. This is pure -- a competitor in the industry comes to us</p> <p>2 for Swiss-based things, euro/Swiss, dollar/Swiss. This was</p> <p>3 just a conversation regarding liquidity. It's just really</p> <p>4 talking about what will the market be in the morning, in the</p> <p>5 afternoon.</p> <p>6 Q. And are you uncomfortable with traders exchanging</p> <p>7 information like this in chatrooms, Mr. Yanez?</p> <p>8 A. No, it's very generic. There's nothing specific to a</p> <p>9 client or any kind of flow.</p> <p>10 Q. Let's look at one more. Let's look at Plaintiffs' 1624-A,</p> <p>11 and we could look at the line at 15:05:11.</p> <p>12 So this is two traders. We've got John Callaghan at</p> <p>13 Morgan Stanley and John Munley at Credit Suisse. Do you see</p> <p>14 that?</p> <p>15 A. I do.</p> <p>16 Q. Mr. Callaghan says: How wide in 100 million New Zealand</p> <p>17 dollar? Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. And Mr. Munley replies, 15. Do you see that?</p> <p>20 A. I do.</p> <p>21 Q. Do you understand what this chat relates to?</p> <p>22 A. It's the same thing. It's one bank asking what do you</p> <p>23 know -- what do you think the market is now on 100 New Zealand</p> <p>24 dollar, and he's just showing a generic -- a thought of what a</p> <p>25 generic spread would be.</p>	<p>MAEHFor1 Yanez - Direct Page 483</p> <p>1 Q. So that's interesting, Mr. Yanez. Are you suggesting that</p> <p>2 different banks are more competitive or less competitive in</p> <p>3 different currencies; is that what you're saying?</p> <p>4 A. Absolutely.</p> <p>5 Q. Why is that?</p> <p>6 A. Well, there are banks that have natural bias based on where</p> <p>7 they're from. That's part of it. Deutsche Bank is, obviously,</p> <p>8 a huge player in euros. They're a European bank. And some</p> <p>9 banks just didn't have the personnel to compete in every single</p> <p>10 currency, so they would pick their currencies that they would</p> <p>11 compete in, whereas we would try to compete in everything. And</p> <p>12 certainly the largest top ten competed in most things.</p> <p>13 Q. Just cleaning up a little jargon, Mr. Yanez.</p> <p>14 You mentioned earlier that traders in chatrooms needed</p> <p>15 each other to exit liquidity positions. Could we just draw you</p> <p>16 out a little bit on what that means, please.</p> <p>17 A. Sure. So there's only a couple of different ways, if</p> <p>18 you're a market making trader, that you can exit risk that's</p> <p>19 given to you by a client. You can have the other side</p> <p>20 naturally in your book, which means it's just negating your</p> <p>21 risk, or you can go into the broker market to exit the</p> <p>22 position, or you can go direct to another bank. That's kind of</p> <p>23 the three ways you get out of things.</p> <p>24 And the relationships that got built on these</p> <p>25 chatrooms was really to make sure that there's a certain number</p>

<p>MAH3FOR1 Melvin - Direct Page 561</p> <p>1 A. Many publications, mainly on the foreign exchange market. 2 Q. Have you published any textbooks? 3 A. I have. My first textbook was in international finance. 4 And that textbook is still going today. I also wrote 5 principles of economics, macroeconomics textbook, and 6 international economics textbook. Those textbooks I let go out 7 of print when I left academia. 8 Q. Are you also an editor of any journals? 9 A. I was. For over 20 years I was co-editor of the Journal of 10 International Money and Finance which is the leading scholarly 11 journal in international finance, and I specialized in the 12 foreign exchange market research publications that we reviewed. 13 Q. Have you ever served as a visiting scholar? 14 A. Yes. I was a visiting scholar at the Federal Reserve 15 Board, the International Monetary Fund, and the Bank for 16 International Settlements. 17 Q. Do you belong to any professional organizations? 18 A. American Finance Association, American Economic 19 Association. 20 Q. Outside of academia, what professional experience, if any, 21 do you have? 22 A. In 2005 I left academia to join Barclays Global Investors 23 which was acquired by BlackRock in 2009. So from 2005 to 2016 24 I was in the industry as a practitioner. 25 Q. Can you describe for the jury your roles and</p>	<p>MAH3FOR1 Melvin - Direct Page 563</p> <p>1 Q. Have you ever served as an expert witness before? 2 A. I have. 3 Q. How many times? 4 A. Once. I've been in court once before as an expert witness. 5 Q. Are you being compensated for your work on this case? 6 A. I am. 7 Q. What is your rate? 8 A. It's \$1,000 an hour. 9 Q. Is that your standard rate? 10 A. Since last year. 11 Q. To what extent does your compensation depend upon your 12 opinions in this case? 13 A. Not at all. 14 Q. Have you prepared anything that would help you summarize 15 for the jury the opinions you'll be giving today? 16 A. Yes. I prepared some exhibits that I think will be 17 helpful. 18 Q. So why don't we bring up DTX 2023. Can you see that all 19 right? 20 A. I can, yes. 21 Q. Perfect. Okay. Can you just give the jury an overview of 22 these areas that you'll be opining on today. 23 A. This is basically an outline of what I am going to talk 24 about. 25 So I am going to talk about an overview of FX trading,</p>
<p>MAH3FOR1 Melvin - Direct Page 562</p> <p>1 responsibilities at BGI and BlackRock? 2 A. Yes. I was hired in a pretty senior level, managing 3 director. I was head of currency research and head of currency 4 investment funds. And I had that role at BGI the whole time, 5 and when BlackRock acquired us, I had that role at BlackRock 6 for a few years. 7 Q. At BGI or BlackRock, did you manage currency investment 8 funds for institutional investors? 9 A. Those were our clients. Our clients were so-called 10 institutional. What that means, an institutional investor, it 11 is not like individuals, households. It's like pension funds, 12 foundations, central banks, big institutions that ask us to 13 manage money for them. 14 Q. In your role at BlackRock, did you have occasion to 15 interact with FX traders? 16 A. Yeah, very closely. So my team would build the portfolios 17 and determine what we would buy and sell. And then we would 18 pass our trade orders to a trading desk where the foreign 19 exchange traders would, it's their job was to trade our orders. 20 So naturally I was very interested in the quality of the 21 execution of our trades. So I spent a lot of time sitting on 22 the foreign exchange desk with the traders. If I wasn't there 23 physically, I was talking to the trading desk. Because we 24 wanted to get the best possible prices for our clients' trades. 25 Our trades, our clients' money.</p>	<p>MAH3FOR1 Melvin - Direct Page 564</p> <p>1 but not as much as I was, because I think you've already seen a 2 lot of that and I don't want to be repetitive or redundant. 3 Then I am going to talk about the assertion that 4 spreads are durable, meaning they don't change for long periods 5 of time. 6 And then I am going to talk about the how information 7 sharing, for instance, in the chats, serves a legitimate 8 business purpose. 9 And then I am going to talk about the spread chats. I 10 am going to review them and hopefully explain clearly how they 11 are consistent with discussions of market color. 12 And then lastly, I will talk about how sharing spreads 13 in chats would not have had a wide-ranging impact on the 14 foreign exchange market. 15 Q. What types of materials did you review in forming the 16 opinions you are going to be presenting today? 17 A. Obviously the chats, I've looked at lots of chats, data on 18 prices in the market, trades, so lots of data. 19 Q. Professor Melvin, I understand you were prepared to talk 20 about some of the basics of the FX market, but I think in light 21 of the testimony already presented, I am going to try to 22 streamline things a bit. 23 So did you review the testimony and the slides of 24 plaintiffs' industry expert Mr. Eric Robin? 25 A. I did, yes.</p>

<p>MAH3FOR1 Melvin - Direct Page 573</p> <p>1 getting clients to trade with them, they are not going to make 2 any money, so they want to get more client business, not less. 3 So, someone to trades a lot like -- BlackRock's not 4 the only firm that does a lot of foreign exchange trading. 5 There are certainly other large asset managers and there are 6 also certain specialty investment funds that all they do trade 7 currency and they trade a lot. So, there are others besides 8 BlackRock that trade lot of currency and are very important 9 clients to banks. 10 Q. Is it fair to say they, too, would have leverage in price 11 negotiations? 12 A. Leverage in? 13 Q. In price negotiations? 14 A. Leverage in price negotiations. Well, certainly the more 15 business you can bring to a bank, the better they would like to 16 treat you probably. 17 But, you know, they want to have a range of customers. 18 There aren't just big asset managers, there are medium asset 19 managers, small asset managers, there are non-asset managers 20 like corporations, there are official institutions like central 21 banks, and there are regional banks, small banks that are not 22 market makers. All of these people, like on this slide, 23 they're all customers of the bank, and some are big and some 24 are small. 25 But, the more of this business that you are</p>	<p>MAH3FOR1 Melvin - Direct Page 575</p> <p>1 feedback? 2 A. I am. Yes, I am. Because, we would hear about -- from 3 banks as well as we had some sense of other firms that were 4 also, like the monthly post trade analytics that we would do, 5 to hold our banks to account, we weren't the only ones. And 6 then third parties came along who, if you didn't have the 7 resources to have your own trading research group, there are 8 third parties that that's what they do. They do post trade 9 analytics. So if you are a smaller fund and you don't have the 10 resources to do this kind of stuff, you can hire someone who 11 reviews your trades and does it for you. So, it's kind of 12 commoditized now that anybody can have this post trade 13 analytics done. It's not just -- now this has been going on 14 for many years. 15 Q. Let's bring up Robin direct slide 27, please. So, 16 Mr. Robin testified that a spread is a price. Do you agree 17 with that statement? 18 A. No. The spread is the difference between two prices. 19 There is an offer or ask price, and there is a bid price, and 20 the spread is the difference between those two prices. 21 So the spread isn't a price. It is the difference 22 between two prices. 23 Q. Mr. Robin pointed out a few Bloomberg chats where FX 24 traders referred to spreads as prices. Does that change your 25 view in any way?</p>
<p>MAH3FOR1 Melvin - Direct Page 574</p> <p>1 accumulating from all of these people, the more you are going 2 to trade. And the more you are going to trade, the bigger the 3 revenue should be from your foreign exchange business. 4 Q. When you were at BlackRock, what types of feedback, if any, 5 did you provide to your FX dealers? 6 A. Well, there could be real time feedback, if they show you a 7 quote and you think it's a bad quote and you tell them so. And 8 then there would be systematic feedback at more regular 9 intervals. We once a month would review all our trades of the 10 prior month, and we would look bank by bank, currency pair by 11 currency pair, to see what kind of execution quality we were 12 getting. And if the data systematically suggested we weren't 13 getting good pricing from a bank, then we would put them in the 14 doghouse we would say. We stopped trading with them, and we'll 15 trade with those who are making better prices. 16 And then once a year, there was a global review by the 17 head of overall head of global head of trading, who would meet 18 with the heads of the foreign exchange business at each of 19 these banks and would do a review of the business, piece by 20 piece, all the things we expected. It is not just prices. It 21 is primarily prices. But there are other things, like speed of 22 execution, provision of market color to us, and other factors 23 that would go into our evaluation of banks. So they would get 24 that feedback once a year. 25 Q. Are you aware of whether other customers gave similar</p>	<p>MAH3FOR1 Melvin - Direct Page 576</p> <p>1 A. No. That's just loose talk, like someone will say here's 2 my view of the spread, and someone will say nice price. 3 MR. BURKE: Objection. 702, your Honor. 4 THE COURT: Overruled. 5 Q. Were you done with your answer, Professor Melvin? 6 THE COURT: I had overruled the objection. 7 And you were saying, no, that's just loose talk, like 8 someone will say here's my view of the spread and someone will 9 say nice price. 10 A. Okay. Yeah, so someone would say nice price. It's just 11 shorthand for good spread. 12 Q. In your experience as an FX customer, do customers make 13 trading decisions on spread or on price? 14 A. Price. When you contact a bank and request say a two-way 15 price, you know what you want to do. If you know you want to 16 buy euros, they are going to show you an offer price at which 17 you can buy the euro, and they are going to show a bid price at 18 which you can sell euros to them. 19 If you are a buyer, price is what you care about. 20 That's what really matters. You are focused on price. 21 Q. Have you prepared anything to demonstrate this point to the 22 jury? 23 A. Yes, I have. 24 Q. Let's bring up DTX 2022, please. Professor Melvin, can you 25 walk us through this slide.</p>

<p>MAH3FOR1 Melvin - Direct Page 601</p> <p>1 events in the world happened, market conditions change, spreads 2 change. 3 So, I love this graph because I think it just tells a 4 nice history of the past couple of decades. 5 Q. Let's move on to the next opinion you have regarding 6 information sharing. Information sharing serves a legitimate 7 business purpose. 8 Can you briefly describe your opinion on this topic 9 for the jury. 10 A. Yes. Did you want me to discuss it right now? 11 Q. Well, yeah. Can you just sort of give us an overview if 12 you will of your opinion on this. 13 A. Think of that slide where I had the determinants of spreads 14 on the top, we had these things that were kind of universal for 15 all traders, and on the bottom we had the trader specific 16 things. And I said traders must be well informed about the 17 market all day long, because they never know when they are 18 going to get called by someone requesting a quote. So they 19 have to stay on top of the market. 20 So, how do you learn about this. Well you look at 21 these computer screens, so-called Bloomberg screen is a very 22 popular one because it's got news streaming across it all day 23 long. You can learn about market conditions and you also talk 24 to people in chats. These chats are like a foreign exchange 25 traders social network. There is a lot of nonsense and talking</p>	<p>MAH3FOR1 Melvin - Direct Page 603</p> <p>1 A. The chats that I've seen, indeed, I do. 2 Q. Mr. Robin testified that he does not consider sharing 3 bid-ask spreads shown to customers to be market color. Do you 4 agree with that statement? 5 A. Bid-ask spreads that have been shown, meaning past tense, 6 have been shown to customers, yeah, that's market color. 7 Q. What do spread discussions tell a market participant about 8 the market? 9 A. Yeah, in these chats you will see somebody say something 10 like what's the spread in 100 dollar/peso right now or at the 11 moment or these days. You see different terms. But all means 12 like right now, what's the spread on 100 dollar/peso. 100 13 million U.S. dollars against pesos. When you get that answer, 14 that gives you an efficient view of liquidity and volatility. 15 MR. BURKE: Objection. 702, your Honor. 16 THE COURT: I'll allow it. 17 Q. Were you done with your answer, Professor Melvin? 18 A. Yeah. I'm saying, people says what is the current spread, 19 and they give you answers. This is how you learn because the 20 spread will reflect that trader's perception on liquidity and 21 volatility. 22 If you ask what's the volatility, what are they going 23 to say. It's real volatile today, not so volatile. When you 24 hear what they see as a relevant spread right now, then you get 25 good information on these factors.</p>
<p>MAH3FOR1 Melvin - Direct Page 602</p> <p>1 about football games and other things, but there is also 2 information sharing about current market conditions. 3 So you learn from the chats, you learn from looking at 4 the screens in front of you, you talk to people. All of these 5 sources of information serve a legitimate business purpose, 6 because the more you know about the market, the better prices 7 you can make. The less you know, and the more uncertainty, the 8 wider the spreads. The more you know and the more certainty 9 you have about market conditions, the tighter the spread. 10 Q. You've mentioned market color a few times so far. Can you 11 define that term for us? 12 A. I don't know that I've ever seen a definition of market 13 color. To me it means state of the market. Current market 14 conditions, market color, is you're asking, you're learning 15 about current market conditions. 16 Q. Is market color a commonly used phrase in the industry? 17 A. Oh, very much so. 18 Q. Is it a new term? 19 A. New term -- look, I went in the industry in 2005 and people 20 were talking about market color when I got to BGI in 2005. So, 21 it's been around at least since 2005. I don't know when the 22 term started, but it was certainly there when I started in the 23 business. 24 Q. Would you consider discussion about spreads among traders 25 to be market color as you define it?</p>	<p>MAH3FOR1 Melvin - Direct Page 604</p> <p>1 Q. How do traders go about collecting market color? 2 A. As I said, they can look on computer screens to see what's 3 going on in the market. They can talk to other traders in the 4 trader chats. They can talk to their customers. They have 5 bank customer chats and talking to the customers on the phone. 6 So, there are many sources of market color. Well, "many," I 7 just mentioned three. So chats with other dealers, discussions 8 with customers, looking at the financial news on the TV or the 9 screens on their computer. 10 Q. Dr. Singer testified that it would make no sense for 11 competitors to discuss spreads in the absence of an agreement 12 to fix prices, because competitors could take that information 13 to undercut one another. Do you agree with that statement? 14 A. No. I think hearing spreads with people that you believe 15 will exchange information. That's why you're in the chat with 16 them. You are in a chat to exchange information, and you give 17 each other views on the current state of the market regularly. 18 Discussions of spreads were not so frequent, but they would 19 occur at times, particularly for large trade sizes. Generally, 20 when they ask what's the spread, it's for a big trade size. 21 They don't need to know what's the spread for 5 million or 2 22 million. But for big trades, they want to be informed, so if 23 they get a call for such a large trade, they have that kind of 24 information. 25 Q. Mr. Robin testified that banks customer spreads are</p>

<p>MAH3FOR1 Melvin - Direct Page 609</p> <p>1 chaps, what's the spread in 300 euro. That's 300 million euros 2 at the moment. That's a big trade. Overwhelmingly the spread 3 discussions regard big trade sizes, which means lots of risk at 4 the bank. Spread in 300. And the asker says 8-10 question 5 mark, and one says well we are 10. And then says no tighter. 6 And so another person says we wider. And says 10/12. And yup. 7 12. 8 So, they are exchanging their views of what they think 9 is the appropriate spread on 300 million euros against U.S. 10 dollars. And again, in my experience, my reading of this, this 11 is perfectly acceptable exchange of market color. Market 12 information. 13 Q. So, based on your review of chat discussions in this case, 14 did you have a view as to the frequency with which traders were 15 discussing spreads with traders at other banks? 16 A. Not until we looked at the data. The data inform us of 17 pretty much everything, so after looking at the data I had a 18 view. 19 Q. What is that view? 20 A. Very infrequent. As I said, there are overwhelmingly for 21 really big trade sizes which you don't do very often. But 22 again, being part of your market knowledge is being prepared to 23 quote a big trade size, so you need to have an idea of what 24 would be an appropriate spread. And you see when you look at 25 the data, the discussions of spreads in the chats that were</p>	<p>MAH3FOR1 Melvin - Direct Page 611</p> <p>1 Because I told you about my paper where I studied this crisis 2 period, and what you saw in the crisis period is one of the 3 factors, one of the things that changed, very interestingly, 4 people stopped trading big size. They started trading small 5 size. And if they had to trade 50 million euros, they would 6 trade it electronically in small clips of like five, five, 7 five, instead of trying to trade all 50 together. Because it 8 would have been so expensive to try and trade 50. 9 So what's the spread in 100 and 50. And you hear so 10 10 yesterday afternoon, no hesitation they dealt. And somebody 11 else says yeah, thinking it wider. Okay. We're outside of 12 that I think. We're 10 in 50 at the moment. Probably a bit 13 too wide. Get out. 7 in 50 question mark. Are you showing 5. 14 We're 8-10 in 100. 15 So they are going back and forth trying to understand 16 this crazy market and get a sense of current market conditions. 17 So, again, in my experience, in my reading of this, 18 this is perfectly acceptable exchange of market color. Plus, 19 there is nothing in these chats that we've reviewed so far 20 about widening spreads. They are talking about what's the 21 current spread. The spread yesterday may have been wider and 22 this is tighter. There is nothing in any of the spreads we've 23 seen about widening spreads. It is just what is the spread 24 right now. 25 Q. Okay. So, we've walked through just a few examples of</p>
<p>MAH3FOR1 Melvin - Direct Page 610</p> <p>1 studied were very infrequent. 2 Q. Let's show the next Exhibit PTX 0938A-0001. And this is a 3 September 18, 2008, chat among Brian Walker at Credit Suisse, 4 John Munley at RBS, and Jason Crank at RBS. 5 And Professor Melvin, if you can review -- try not to 6 read it before I actually call off the lines. 11:17:29 through 7 11:54:48 and I assume you're done. 8 A. I am. 9 Q. Is this one of the chats that you reviewed in connection 10 with the opinions you're providing today? 11 A. It is, yes. 12 Q. Can you describe for the jury what's happening here? 13 A. This a great one right here. Look at the date. 14 September 18, 2008. Lehman Brothers went bankrupt 15 September 15, 2008. And the world just went downhill from that 16 day forward for quite a while. This is three days after the 17 Lehman Brothers bankruptcy. It was incredibly crazy. 18 So, volatility at all-time high, illiquidity, nobody 19 wants to trade with anybody because you don't know who was 20 going to go bankrupt next. So, people were scared. 21 And what do you see at the top. Buckle up dude. In 22 other words, this is crazy. Get ready because this is crazy. 23 And it was. So, then what's the spread in 100 million euros, 24 in 50 million euros today. Wow. In those market conditions, 25 to try and trade 100 million euros, good luck with that.</p>	<p>MAH3FOR1 Melvin - Direct Page 612</p> <p>1 chats that you have reviewed in connection with your opinions. 2 Did you review other chats as well? 3 A. Yes, I did. 4 Q. How would you describe overall that set of chats that you 5 reviewed? 6 A. That chats I reviewed, just like this last one and the 7 other ones, to me, again, my reading of this, my opinion, is 8 these are exchanges of market color, perfectly acceptable 9 exchanges of information on current market conditions. 10 Q. Let's move to the final area of your opinions, which is 11 sharing of spreads would not have a wide-ranging impact on the 12 FX market. Can you just briefly explain what you're referring 13 to here. 14 A. Yeah, if you have four traders in a chat saying what's the 15 current spread at the moment, that's four traders in this chat 16 who know what is being discussed. If you are not in that chat, 17 you are not participating. You don't hear this. You don't 18 have access to that information. 19 So what's discussed in one chat is contained in that 20 chat. What's discussed in one chat is like what's the right 21 spread on a particular currency pair for a particular amount. 22 So, it is the discussion right now, what's the right spread on 23 100 million euro/dollars on September 18, 2008. In that 24 chatroom they are talking about 100 million euros, what's the 25 right spread. And if you are not in that chat with those, I</p>

<p>MAH3FOR1 Melvin - Direct Page 617</p> <p>1 business, because the more aggressive quoters reflecting 2 current market conditions will take their customers away from 3 them. 4 So, that's like I said, the rest of them, that would 5 be a wonderful situation if somebody would actually do that. 6 Q. How about if we change, let's say all 16 of the highlighted 7 banks agreed to coordinate on spreads. 8 A. I can tell you people like State Street and TD and Westpac 9 and BNY Mellon will be all over their customers. And you know, 10 because if they're not part of this agreement, they are going 11 to be quoting more aggressively, and you will see those market 12 shares of these -- we were told like 90 percent market shares, 13 those will start shrinking and you see that happening in the 14 Euromoney survey. If 16 are fixing spreads out of line with 15 reality, these other will win the business, take them away from 16 them. 17 Q. Were you here for the video testimony of Natalie Williams? 18 A. I was. Very entertaining. 19 Q. Do you recall Ms. Williams was asked if she and other 20 participants in the chat had the power to affect spreads in the 21 currency pairs she traded? 22 A. Yeah, I think she said that in the chat. 23 Q. Do you remember her response? 24 A. She said, look, it was a joke, British humor, about four 25 small banks could not possibly have the power to do that. It's</p>	<p>MAH3FOR1 Melvin - Direct Page 619</p> <p>1 on spreads, we are going to have to talk continuously because 2 the spread at 8 a.m. London is a different than the spread at 3 5 p.m. London, for instance. If we are going to be agreeing to 4 fix spreads, we can't just say, okay, we are going to fix the 5 spread here, and there it goes, we are not changing. That 6 couldn't possibly work. 7 So you would have to have continuous discussions to 8 keep updating, okay, what's the right spread now, what are we 9 going to agree to now. And this kind of continuous discussion, 10 I think again, based on my experience, just seems completely 11 infeasible and impractical. 12 (Continued on next page)</p>
<p>MAH3FOR1 Melvin - Direct Page 618</p> <p>1 just another example of her colorful term for gossip and 2 foolishness and discussions. 3 Q. Do you agree with Ms. Williams that those four or five 4 banks didn't have the power? 5 A. No four banks have the power in my mind. 6 Q. Why is that? 7 A. Because you can't do that if you want -- how do you make 8 money? You make money trading. How did you get people to 9 trade with you? You make good prices and they trade with you. 10 You don't make good prices, they go somewhere else. 11 Four banks think they are going to fix spreads out of 12 line with market conditions, out of line with market 13 conditions, that is not, in my experience and based on my 14 studies of this market for many, many years, that's just not 15 sustainable. Unless they want to lose market share, trade less 16 with their customers and lose revenue in the foreign exchange 17 division of that bank. 18 Q. Professor Melvin, if a group of four or five traders wanted 19 to use the spread information shared in the chatrooms to come 20 to some kind of an agreement on spreads, could they do that? 21 MR. BURKE: Objection, your Honor. 22 THE COURT: Overruled. 23 A. Could three or four banks come to an agreement on spreads? 24 I don't see how they possibly could because the spreads are 25 changing all the time. If you are going to have an agreement</p>	<p>MAHHFor2 Melvin - Direct Page 620</p> <p>1 Q. And have you prepared any materials to sort of make this 2 point to the jury? 3 A. Well, I looked at the frequency of discussions of spreads 4 in the chats, which I said was quite infrequent. 5 Q. Well, let's bring up DTX 2025 and talk about this first. 6 Can you explain this graphic for us. 7 A. Yeah. So here's a day that says again at the top implied 8 spread for 5 million euros against yen July 31, 2012, and we 9 see two dots here. You see a spread at noon, which is right 10 around maybe a little under 3 pips if you look over to the 11 left, and then we see a spread, it jumps up at 2 p.m. to 12 5 pips. And this is a good indication of what can happen on a 13 given day and how silly it would be to think, oh, we're just -- 14 let's fix the spread at three or fix the spread at four or fix 15 the spread at five. You just couldn't do that and have any 16 sustainable business. 17 Q. Let's move to DTX 2020, please. 18 Can you explain your understanding of this slide. 19 A. Yeah. So this is how I got a sense of the frequency of 20 just the chats in general. This is across all banks, all 21 currency pairs. So looking across -- you know, all the 22 observations of Mr. Singer used, we see less than two chats per 23 trading day. So certainly not close to continuous discussions 24 that you would have to have if you actually thought you could 25 do something like set the spreads at some fixed level.</p>

MAHHFor2	Melvin - Direct	Page 621	MAHHFor2	Melvin - Cross	Page 623
1	Q. What if we doubled this number? What if there were four		1	they're going to be sharing in one chat one currency pair, one	
2	multibank chats per trading day? Would that affect your		2	amount in one chat, and if you had a spread on one currency	
3	opinion?		3	pair for one size, that would not affect the spreads on other	
4	A. No. As I said, I think you'd have to have continuous		4	currency pairs in different sizes or even the same size.	
5	discussions of this to be able to do something like that, and		5	So that is a brief review of my views.	
6	even then you don't know what everybody's quoting. So you may,		6	MR. WASHER: Thank you, Professor Melvin.	
7	say, hey, let's all quote seven, and then these other people		7	I have no further questions.	
8	you're on the chat with, you don't know what they're quoting.		8	THE COURT: Let's take our morning break. We'll	
9	There's no way you can observe it. You can't monitor what		9	reconvene in ten minutes.	
10	they're doing.		10	(Jury excused)	
11	Q. Thank you, Professor Melvin.		11	THE COURT: OK. We'll adjourn for ten minutes.	
12	Why don't we bring back DTX 2023. Professor Melvin,		12	(Recess)	
13	if you could summarize your opinions for the jury.		13	(Jury present)	
14	A. OK. So we started with the overview of FX trading, but we		14	THE COURT: You may be seated.	
15	really didn't talk too much about that. But, clearly, the big		15	MR. BURKE: Your Honor, may I address the witness?	
16	point there is people care about prices. They want to buy or		16	THE COURT: We're still missing one juror.	
17	sell at the price that they want -- if they're a buyer, they		17	Excuse me just a moment. I'm going to excuse the	
18	care about the offer price; if they're a seller, they care		18	missing juror. Just give me a minute.	
19	about the bid price. That's what really matters. When you		19	(Recess)	
20	show them two prices, there is a spread implied, the difference		20	THE COURT: You may proceed.	
21	between them, but what the client cares about, the customer,		21	MR. BURKE: Thank you, your Honor.	
22	the price on the side of the market where they want to trade.		22	CROSS-EXAMINATION	
23	Number two, spreads are not durable. Again, this term		23	BY MR. BURKE:	
24	"durable" is being used here to suggest spreads don't change,		24	Q. Dr. Melvin, you were deposed in this action in July of	
25	and that's just simply not true. If you point to these		25	2020. Do you recall that?	
MAHHFor2	Melvin - Direct	Page 622	MAHHFor2	Melvin - Cross	Page 624
1	quarterly spread matrices, they don't change for three months,		1	A. Deposed in July 2020, yes.	
2	but that doesn't matter. That's not what you can trade on.		2	Q. And does your deposition testimony remain truthful and	
3	What matters is what you can actually trade with a bank. Show		3	accurate today?	
4	me the prices where we can trade. They don't come out of the		4	A. It does.	
5	quarterly spread matrix.		5	Q. Like to establish a couple of things that I don't believe	
6	And then number -- so spreads change all the time as		6	you're giving an opinion on.	
7	market conditions change. The only way you could believe that		7	Dr. Melvin, you're not giving an opinion on whether	
8	spreads are "durable," don't change, all those factors around		8	the conduct in multibank chatrooms was pro or anticompetitive,	
9	that little circle of the determinants of those spreads, if		9	are you?	
10	those things didn't change, spreads wouldn't change. If		10	A. No, I'm not.	
11	they're changing, spreads are changing.		11	Q. And you're not giving an opinion as to whether there was a	
12	Then information sharing serves a legitimate business		12	conspiracy or agreement to widen spreads, are you?	
13	purpose. The more you know about the market, the better dealer		13	A. I think I'm not supposed to.	
14	you can be, the better prices you can make to your customer.		14	Q. And you're not giving an opinion as to any characteristics	
15	So those chats, the information sharing in the chats are		15	of the foreign exchange market that makes price fixing more or	
16	absolutely serving a legitimate business purpose because it		16	less likely to occur, correct?	
17	helps inform your view of market conditions.		17	A. I certainly have views on that.	
18	Four, spread chats reviewed are consistent with market		18	Q. Are you giving that opinion, sir?	
19	color. I certainly believe that is the case because they're		19	A. I would be happy to, but I don't know if I'm allowed to.	
20	discussing, hey, what's the right spread on 100 million pesos?		20	Q. Dr. Melvin, you've never served as an economist for the	
21	And people give you responses. That gives you their view of		21	Department of Justice or Federal Trade Commission or any other	
22	liquidity and volatility at that time in the market. So that's		22	governmental agency charged with enforcing the antitrust law,	
23	a very efficient way to convey that kind of information.		23	correct?	
24	And then sharing of spreads would not have a		24	A. Correct.	
25	wide-ranging impact on the foreign exchange market. Yeah,		25	Q. You have no law-related education or professional training?	

<p>MAHHFor2 Melvin - Cross Page 641</p> <p>1 been redacted in 130 million Australian dollar to U.S. dollar?</p> <p>2 A. You tell me the redacted words are real firm -- business</p> <p>3 firm's name and not a type of customer, so you want me to make</p> <p>4 that assumption and answer accordingly?</p> <p>5 Q. I do.</p> <p>6 A. OK. Yeah, then I agree, that's what it says. There's some</p> <p>7 real customer whose name we don't know, and he's asking what's</p> <p>8 the right spread to them in 130 million Aussie dollar against</p> <p>9 U.S. dollar.</p> <p>10 Q. Mr. Leighton responds: Wide. And you understand "wide" to</p> <p>11 mean spread, correct?</p> <p>12 A. Yeah, a wide spread.</p> <p>13 Q. Mr. Ware of Credit Suisse tells the group that Credit</p> <p>14 Suisse showed 20 pips to this specific customer, but perhaps</p> <p>15 should be 25 pips, correct?</p> <p>16 A. Yes, I see that.</p> <p>17 Q. Now, despite being competitors, Mr. Leighton, Mr. Ware, and</p> <p>18 Mr. Parikh, who work for Merrill, Credit Suisse, and Goldman</p> <p>19 Sachs, respectively, discussed what to show a particular</p> <p>20 customer in 130 million Aussie dollar, correct?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. How does responding to Mr. Parikh's question of Goldman</p> <p>23 Sachs help B of A or Credit Suisse compete with Goldman Sachs?</p> <p>24 A. Well, earlier today I talked about certain customers that</p> <p>25 have a reputation as being a predatory customer who take</p>	<p>MAHHFor2 Melvin - Cross Page 643</p> <p>1 working for DB in this particular chat.</p> <p>2 Why don't we show Dr. Melvin lines 135:22 to 136:6.</p> <p>3 Are you there, sir?</p> <p>4 A. Yes, I am.</p> <p>5 Q. Mr. Stalker at Credit Suisse writes: Stu, what spread you</p> <p>6 show Fawltly in 50 quid?</p> <p>7 Did I read that correctly?</p> <p>8 A. Yes, you did.</p> <p>9 Q. Do you understand Mr. Stalker is asking Mr. Dunn what is</p> <p>10 the spread to quote a specific customer, namely Fawltly in</p> <p>11 50 million pound/dollar?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know who Fawltly is?</p> <p>14 A. Mr. Dunn told us the other day, and I was sitting here when</p> <p>15 he gave us his testimony. Probably would have been my guess</p> <p>16 also, the Bank for International Settlements, because they're</p> <p>17 in Basel, Switzerland. And there used to be a comedy show on</p> <p>18 public television about "Fawltly Towers" where the guy's name</p> <p>19 was Basel Fawltly. I think this is more British humor in terms</p> <p>20 of names. Yeah, that would be, as Mr. Dunn said, Fawltly was</p> <p>21 the BIS, he thought.</p> <p>22 Q. And Mr. Dunn of Deutsche Bank responds: Six to seven.</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes, he does.</p> <p>25 Q. You understand that he's telling Mr. Stalker he shows 6 to</p>
<p>MAHHFor2 Melvin - Cross Page 642</p> <p>1 advantage of banks by splitting orders. Is that what kind of</p> <p>2 customer we're talking about here where they're going to widen</p> <p>3 spreads?</p> <p>4 Q. No, sir. It's a central bank. It's a central bank.</p> <p>5 A. A central bank? OK. Then what's the right spread to the</p> <p>6 central bank in 130? He says, Wide, and the other says, We</p> <p>7 showed 20, but perhaps it should be 25. So, you know, there's</p> <p>8 a range there because the market conditions could be consistent</p> <p>9 with a spread of 20 or consistent with a spread of 25.</p> <p>10 Q. And my question, sir, is by responding to the question from</p> <p>11 the trader at Goldman Sachs, how does that help Bank of America</p> <p>12 or Credit Suisse compete with Goldman Sachs?</p> <p>13 A. Well, if this is using somebody -- a real counterparty's</p> <p>14 name, that's a discussion they shouldn't be having. If they</p> <p>15 had used BlackRock, we would not have been happy. If they had</p> <p>16 used "real money" or, in this case, if they had used "official</p> <p>17 institution," that would be acceptable, but it would have been</p> <p>18 unacceptable to me to use somebody's actual name in a chat. So</p> <p>19 to me this is a discussion they shouldn't be having.</p> <p>20 MR. BURKE: Let's put up 1752A, please.</p> <p>21 Q. All right. The participants are Dan Stalker, who's at</p> <p>22 Credit Suisse; Stuart Dunn of Deutsche Bank, and Jamie Lawes</p> <p>23 who was at Credit Suisse. Dr. Melvin, I represent to you that</p> <p>24 Mr. Dunn testified at trial earlier that Mr. Lawes and</p> <p>25 Mr. Stalker were indeed working at Credit Suisse, and he was</p>	<p>MAHHFor2 Melvin - Cross Page 644</p> <p>1 7 pips in 50 million cable to Fawltly, correct?</p> <p>2 A. Yeah, that's his recommendation, it seems.</p> <p>3 Q. And Mr. Stalker thanks him, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Is it the case that Mr. Stalker and Mr. Dunn are discussing</p> <p>6 spreads to show a specific customer?</p> <p>7 A. Yes.</p> <p>8 MR. BURKE: Let's put up 1767A, please.</p> <p>9 Q. All right. The participants in this chat are Michael</p> <p>10 Krupkin of JPMorgan, John Altadonna of Credit Suisse, Ryan Neff</p> <p>11 of Morgan Stanley, and Milko Campusano of Bank of America.</p> <p>12 Do you know which chatroom this is looking at it?</p> <p>13 A. The names of the participants. I don't know the name of</p> <p>14 the chatroom, no.</p> <p>15 MR. BURKE: Let's put up 17:39:28 to 18:12:04, please.</p> <p>16 A. OK.</p> <p>17 Q. At 17:39:28, Mr. Altadonna of Credit Suisse writes: How</p> <p>18 wide is 100 quid?</p> <p>19 Did I read that correctly?</p> <p>20 A. Yes.</p> <p>21 Q. You understand that to mean he's asking the traders in this</p> <p>22 chatroom how wide in 100 million pound/dollar?</p> <p>23 A. Yes.</p> <p>24 Q. Because quid is shorthand for pound/dollar?</p> <p>25 A. Yes.</p>

<p>MAHHFor2 Melvin - Cross Page 649</p> <p>1 A. Yes, you did. Now we're in 2012. So we've gone 2009, 2 2011, 2012. Again, it looks like these discussions come from 3 the bank compliance department, but as I said, if you have some 4 document from the fed that gives banks orders in this regard, 5 I'm happy to look at it and give you my opinion. 6 Q. All right. Let's continue on to 7:15:57 through 7:16:16, 7 sir. Landes continues: No asking for spreads. Bad is. Hey 8 guys, what is spread on 300 Aussie/kiwi? That looks like 9 collusion. 10 Did I read that correctly? 11 A. Yes, you did. 12 Q. Are you aware that Mr. Landes asserted his Fifth Amendment 13 privilege against self-incrimination in this courtroom when 14 questioned about this chat? 15 A. I don't remember when -- if this particular chat was 16 presented to him. He asserted that privilege on every question 17 he was asked by both plaintiff and defendant lawyers. 18 Q. And you're aware that Mr. Landes asserted his Fifth 19 Amendment right against self-incrimination as to the previous 20 exhibit we just looked at when questioned about that chat in 21 this courtroom, correct? 22 A. Well, anything he was showed he claimed the Fifth Amendment 23 privilege despite who's asking the question, Credit Suisse or 24 the plaintiffs. 25 Q. Dr. Melvin, did you investigate for what period of time</p>	<p>MAHHFor2 Melvin - Cross Page 651</p> <p>1 Q. Are you aware that BNP pleaded guilty for fixing prices of 2 certain currency pairs by communicating in multibank chatrooms? 3 A. Am I aware they pleaded guilty? No, I'm not aware of that. 4 MR. BURKE: All right. Let's put up PTX 2667, please. 5 This is the plea agreement between the United States 6 and BNP. Let's go to paragraph 4. 4(h) reads: 7 "During the relevant period, the defendant and its 8 cooperator coconspirators, which were also financial 9 institutions acting as competing FX dealers, entered into and 10 engaged in a combination and conspiracy to suppress and 11 eliminate competition by fixing prices for CEEMEA currencies." 12 Q. Did I read that correctly, sir? 13 A. Yes, you did. 14 Q. Under (i) it reads: "In furtherance of the conspiracy, the 15 defendant and its coconspirators engaged in communications, 16 including near daily conversations through private chatrooms." 17 Did I read that correctly? 18 A. You did. 19 Q. You were not aware of this plea agreement, correct, sir? 20 A. No, I was not. I have no idea what motivated BNP to do 21 this. I have no insight into their decision-making. 22 Q. Let's put up -- do you understand Credit Suisse traders 23 also participated in chatrooms with competing banks, including 24 BNP? 25 A. Traders of competing banks were in chatrooms, yes.</p>
<p>MAHHFor2 Melvin - Cross Page 650</p> <p>1 traders used multibank chatrooms to discuss spreads? 2 A. I didn't review, but I know at one point in time they were 3 banned, basically, and all the banks shut them down. 4 Q. All the chatrooms, not just one or two, all of them? 5 A. Yeah. Eventually, they were just no longer viewed worth 6 the trouble and the risk of having them. 7 Q. They didn't shut them down by currency pair. They didn't 8 shut them down by trader. They shut all the chatrooms down, 9 correct? 10 MR. WASHER: Objection. 11 THE COURT: Sustained. 12 You can just disregard that answer and question, 13 ladies and gentlemen. 14 Q. In your opinion traders and competing dealers are still 15 sharing spreads in chatrooms -- sorry. Withdrawn. 16 Did you investigate why the dealers stopped doing the 17 thing that you believed to be beneficial to both dealers and 18 customers, namely, sharing spreads in chatrooms? 19 MR. WASHER: Objection. 20 THE COURT: Overruled. 21 A. I didn't investigate, but I certainly have an opinion on 22 why. 23 Q. Well, are you aware that BNP -- you know who BNP is, 24 correct? 25 A. I do.</p>	<p>MAHHFor2 Melvin - Cross Page 652</p> <p>1 MR. BURKE: Let's put up PTX 2995. 2 Q. Are you familiar with what the ZAR chatroom is, sir? 3 A. Yeah. The ZAR chatroom, as shown here in the circle, has 4 four traders in it. 5 Q. What does "ZAR" stand for; do you know? 6 A. The ISO code for the South African rand. 7 Q. And in the blue circle, there's a chat called "The Old 8 Gits." Are you familiar with The Old Gits? 9 A. Well, we heard some discussion of that in someone's 10 testimony last week. 11 Q. When look at the intersection of the ZAR chatroom and The 12 Old Gits chatroom, you'll see the names Chris Cummins of 13 Citibank and Jason Katz of Barclays and BNP Paribas. Are you 14 there? 15 A. Yes. 16 Q. Are you aware that both Mr. Katz and Mr. Cummins pleaded 17 guilty for fixing prices of certain currency by, among other 18 means, communicating in multibank chatrooms? 19 A. No. 20 Q. To the left of Mr. Cummins is the name Akshay Aiyer of 21 JPMorgan Chase. Are you familiar with who that is? 22 A. Aiyer? 23 Q. Yes. 24 A. Trader at JPMorgan Chase, it says. 25 Q. Are you aware that Mr. Aiyer was convicted by a jury for</p>

<p>MAH3FOR3 Howarth - Direct Page 669</p> <p>1 an extremely good flow trader, but didn't interact with clients 2 as much as others. 3 Q. What about Mr. Lawes. How long did you work with him? 4 A. Jamie had two stints at Credit Suisse. Obviously I worked 5 with him during both stints. During the first time he was very 6 much the young guy on the desk. He was always viewed as joker 7 in the pack. Very friendly, very talkative. We would take him 8 out to see clients quite often. The kind of guy if there was a 9 silence in the conversation, he would fill it. But viewed as a 10 good trader. Clients did generally like to deal with him. 11 Q. Finally Ms. Williams, how long did you work with her? 12 A. I would say, again, maybe two or three years. I don't 13 remember Natalie as well. The reason being she was very junior 14 at the time. She initially joined the sales team, and she was 15 quite shy, which is actually never a good thing for a 16 salesperson. So, she ended up moving on to the trading desk. 17 They wanted to diversify the team. And she always seemed to be 18 quite junior. I wasn't sure if she had a book or not. But 19 probably a couple years, she was in that position. 20 Q. Switching gears a bit. Did you work with a particular type 21 of customer during the relevant time period, that's 2007 to 22 2013? 23 A. Yes. 24 Q. What type of clients did you work with during that time 25 period?</p>	<p>MAH3FOR3 Howarth - Direct Page 671</p> <p>1 A. Can you repeat that? 2 Q. How would you describe the customers that you worked with? 3 A. They were very sophisticated. A lot of these customers 4 were ex-traders, ex-market makers or ex-salespeople. They had 5 a lot of information in front of them. They had 20, maybe 15 6 to 20 banks covering them. 7 So if I was covering them every day, calling them with 8 market info color, ideas, themes, they had 15 other sales guys 9 just like me doing the same. They were smart and 10 sophisticated. 11 Q. You mentioned adding clients over the relevant time period. 12 Were you involved in that process of adding new clients? 13 A. Yes, I was. 14 Q. Was there an onboarding process for new clients? 15 A. Yes, there is. 16 Q. Typically, how long does that onboarding process take? 17 A. It really depends on customer. For a hedge fund customer, 18 for example, who may have a prime broker, we would get that set 19 up in a couple of hours. Once the prime broker had sent that 20 designation notice over to us, it could be signed quickly and 21 sent back. Asset managers who had a number of subfunds and 22 different mandates, that could take from a few weeks to a few 23 months. 24 Q. As a salesperson at Credit Suisse, what were you selling to 25 clients?</p>
<p>MAH3FOR3 Howarth - Direct Page 670</p> <p>1 A. Generally I worked with what we would call investors, so, 2 hedge funds, asset manager, pension funds, and some proprietary 3 trading desks of other banks. 4 Q. How many customers did you and your team cover over the 5 relative time period? 6 A. It was well into the hundreds. Most salespeople might 7 have, most salespeople would have between 15 and 20 clients. 8 It was probably several hundred clients over that period. 9 Q. Did that change over the 2007-2013 time period? 10 A. Yes, it did actually. We increased the number of clients 11 quite substantially during that period. I had a new manager 12 who wanted to really -- who came from UBS, and UBS was a bigger 13 bank, and he wanted to grow the business and compete with those 14 guys. So we grew a lot and as a result we had more clients. 15 Q. Can you give the jury some examples of specific clients 16 your team covered during the relevant time period. 17 A. Yeah, sure. UBS Asset Management, Goldman Sachs Asset 18 Management, Merrill Lynch Bank of America, JPMorgan prop, Moore 19 Capital. Is that enough? 20 Q. That's plenty, thanks. 21 You mentioned a UBS affiliate and Goldman Sachs 22 affiliate. Did your customers include affiliates of other 23 banks? 24 A. Yes. 25 Q. How would you describe the customers you worked with?</p>	<p>MAH3FOR3 Howarth - Direct Page 672</p> <p>1 A. We were selling the capabilities of the bank, so our 2 economics team, our research, our strategy, we were selling our 3 own idea generation, we were selling our ability to transact. 4 That was -- that would be the main things. 5 Q. Did clients ever ask you for a spread you were showing in a 6 particular currency pair at a particular notional amount? 7 A. Yes. 8 Q. Do you have an understanding as to why they would ask for 9 that information? 10 A. Yes, I do. 11 Q. Why in your experience, why would they be asking for that 12 information? 13 A. They would want to get an idea of the cost of transaction, 14 how liquid a market was at that time. If they were thinking 15 about putting a trade on, one of the things you have to think 16 about is the cost of putting that trade on and potentially 17 exiting it. It would be to determine that, and also sometimes 18 as an indicator to see who was good in a particular currency 19 pair. Which banks were good in currency pairs. 20 Q. What do you mean by the cost of putting a trade on? 21 A. I mean that if you wanted to buy or sell a currency, it 22 would take you some time to do it. You will start to buy and 23 the market will move higher, so every point it moves away from 24 you, you were paying a little bit extra to put that position 25 on.</p>

<p>MAH3FOR3 Howarth - Direct Page 677</p> <p>1 Q. Did you have any persistent chats with customers?</p> <p>2 A. Yes, many.</p> <p>3 Q. Are you able to approximate how many you had over the</p> <p>4 relevant time period?</p> <p>5 A. Several hundred, 3, 400.</p> <p>6 Q. Were any other individuals included in your persistent</p> <p>7 chats with customers?</p> <p>8 A. Yes. Obviously there was the customers, there was myself</p> <p>9 as the salesperson, I used to also bring in the rest of the</p> <p>10 sales team, in case I was on the toilet or getting lunch or at</p> <p>11 a meeting, it was important if I wasn't there, one of my</p> <p>12 colleagues could pick up the request. Some clients wanted to</p> <p>13 have traders in the chat as well. And they wanted market</p> <p>14 color, feel what was going on, and some clients also wanted to</p> <p>15 have strategists in there. So, some of these persistent chats</p> <p>16 can be pretty big. Dozens of people.</p> <p>17 Q. When a request came from a customer for a price, would you</p> <p>18 know one way or the other whether or not that customer was also</p> <p>19 seeking a quote from other market makers?</p> <p>20 A. You'd have an idea. The way the Bloomberg chat function</p> <p>21 works, it's quite interesting. You type the price request into</p> <p>22 a dialogue box. And then you can click which banks you want to</p> <p>23 send that price to. Hit send and it goes instantly to those</p> <p>24 five, 10, 15 banks, however many you've selected. And a lot of</p> <p>25 requests came through very generic, no name, just straight</p>	<p>MAH3FOR3 Howarth - Direct Page 679</p> <p>1 So it didn't happen too often. And when it did, I</p> <p>2 would say, 90 percent of the time we did improve, we did</p> <p>3 tighten up to try to win that client deal.</p> <p>4 Q. Would you ever change the quote you received from a trader</p> <p>5 before passing it along to a customer?</p> <p>6 A. Yes.</p> <p>7 Q. For what reason?</p> <p>8 A. Sometimes people on the sales desk would add a point,</p> <p>9 what's known as markup or no risk, a point or two, to the price</p> <p>10 to the client.</p> <p>11 Q. In instances where you did not -- well, what would cause</p> <p>12 you to maybe add a markup to a particular client's transaction?</p> <p>13 A. Quite often we put a lot of time and effort into covering</p> <p>14 these clients. If we were working for a long time on a trade</p> <p>15 idea or we been working the order in the market for a number of</p> <p>16 hours, we would put a point on the price to try to make a</p> <p>17 little bit of extra.</p> <p>18 I think it's worth pointing out, unlike stocks and</p> <p>19 shares where you pay commission to trade, in foreign exchange</p> <p>20 you don't pay a commission. It is essentially a free service.</p> <p>21 So sometimes we would add a point, if we put a particular lot</p> <p>22 of work into this client.</p> <p>23 Q. Was there any risk to adding a point to a transaction for</p> <p>24 markup?</p> <p>25 A. Yes. Yeah. The risk is you lose the ticket. It is a</p>
<p>MAH3FOR3 Howarth - Direct Page 678</p> <p>1 request. And then when we got feedback, often the case of we</p> <p>2 asked three or five, so we had an idea when clients were asking</p> <p>3 other banks and we felt it was in most instances.</p> <p>4 Q. When you receive a quote from one of your traders, would</p> <p>5 you have a view as a salesperson as to the appropriateness of</p> <p>6 the price that was quoted?</p> <p>7 A. Yes.</p> <p>8 Q. How would you come to form a view?</p> <p>9 A. I followed the markets. I am looking at the screens all</p> <p>10 day long. You spend 12 hours on the desk following markets,</p> <p>11 following currency pairs, you build a view, you are trading a</p> <p>12 lot. 30, 40 deals a day sometimes. So you build a picture of</p> <p>13 what feels right and what doesn't feel right.</p> <p>14 Q. If you asked a trader for a spread and the trader came back</p> <p>15 with a quote you didn't think was right, what, if anything,</p> <p>16 would you do?</p> <p>17 A. I would ask him why is that wider than I'd think.</p> <p>18 Q. How often would you have these types of exchanges with</p> <p>19 traders over the relevant time period?</p> <p>20 A. Honestly, not that often because it was a time where we</p> <p>21 were really trying to grow the business. We were on a</p> <p>22 marketing push to increase the number of clients, grow market</p> <p>23 share. So we were trying to quote the tightest possible price</p> <p>24 all the time, because we felt that was really important to us</p> <p>25 to take market share.</p>	<p>MAH3FOR3 Howarth - Direct Page 680</p> <p>1 super competitive industry. If you are a point wider, you</p> <p>2 might miss that.</p> <p>3 Q. Were there factors besides spread or price that were</p> <p>4 important to clients?</p> <p>5 A. Yes, absolutely. I think the quality of a bank's economic</p> <p>6 research, that strategy, getting them into the right trades,</p> <p>7 correct trades, I think coverage, obviously. I'm a sales guy,</p> <p>8 I am going to say that coverage was super important. If you</p> <p>9 had a good relationship, you were getting good ideas from that</p> <p>10 salesperson. I think things like efficiency of back office,</p> <p>11 settlement issues, that was important. Whether the client had</p> <p>12 a relationship in another part of the bank, that was also</p> <p>13 important. So there were a number of factors as to why clients</p> <p>14 chose to deal with us.</p> <p>15 Q. Earlier today you said that after you would provide the</p> <p>16 quote to a customer, that customer might trade or the customer</p> <p>17 might decide not to trade with Credit Suisse.</p> <p>18 Would clients ever seek to negotiate or ask you to</p> <p>19 tighten a spread that you had quoted to them?</p> <p>20 A. Yes.</p> <p>21 Q. I'd like to bring up DTX 578. If you see here, somewhere</p> <p>22 buried in here I do believe it's your name. If we can</p> <p>23 highlight. If we go to the line at 16:14:08. We can see that.</p> <p>24 Are you BHowarth1?</p> <p>25 A. That's me. BHowarth0 is the JPMorgan version.</p>

<p>MAH3FOR3 Howarth - Direct Page 681</p> <p>1 Q. Do you know what this line indicates? 2 A. Yes. That's saying I basically got to work at 6:14 a.m. 3 and I've just logged on. 4 Q. Can we pull up 7:46:06 to 7:48:54. Can you walk the jury 5 through what's happening in this discussion. 6 A. Yes, absolutely. So, Mark Dray, who was a foreign exchange 7 salesperson based in London, he is asking for a price in dollar 8 India. He is asking for an FX swap and the dates of the swap 9 are the 23rd of September to the 24th of October and it's in 50 10 million dollars. He then says Bref which is the name of the 11 client. So the trader knows the currency pair, the amount, the 12 dates, and the client. Francis, who is the Credit Suisse 13 trader based in Asia, he says MP which is moment please. He 14 then 30 seconds later just over 30 seconds later provides a 15 price which is 12 at 14. So at 12 the customer could sell and 16 at 14 they could buy. Mark shows that to the client. There is 17 about a minute gap between him coming back after Francis gave 18 the price. And he is asking if we can show tighter because the 19 client gets one wide elsewhere question mark. Francis doesn't 20 reply. But he just gives the improved price of 12.5 at 13.5. 21 So the spread has gone from 2 points, 12 to 14, to one point. 22 15 seconds later, thereabouts, Mark says 13.5. So that means 23 the client has dealt and has bought at 13.5. 24 Q. How long did that exchange take that you just walked 25 through?</p>	<p>MAH3FOR3 Howarth - Direct Page 683</p> <p>1 Q. Here the trader does tighten his price. How common was it 2 for CS to change its quote in response to a customer request? 3 A. We would tighten probably 90 percent of the time. Because 4 we were trying to grow the business and really expand our 5 market share. We would tighten wherever possible. 6 Q. Mr. Soh says in the last line here that's highlighted or 7 that's called out here, I can show 1.5 pip wide. One pip wide 8 not helping us at all. 9 Do you have an understanding as to what that means? 10 A. Yeah, I think my take on this is that Francis is telling 11 Mark, in future I'd look to be 1.5 rather than one. I would 12 suggest in this instance that Francis may have lost money on 13 this deal. And he's sort having a little complaint at Mark 14 saying one is too wide but I'll commit to 1.5 in the future. 15 One not helping us. 16 Q. How common is it for a trader to lose money on a trade 17 because his spread was too tight? 18 A. It was very common. It was certainly on two-way prices. 19 You had to make an assessment on both sides of the market, 20 because the FX industry was competitive, if you wanted to win 21 the ticket, you had to have a tight price. So, it was common, 22 you might underestimate one side, and then you get dealt on 23 that side and all of a sudden you are struggling to cover it. 24 It did happen fairly frequently. 25 Q. Can we turn to DTX 076. Can we pull up again, this shows</p>
<p>MAH3FOR3 Howarth - Direct Page 682</p> <p>1 A. It took just over two minutes. 2 Q. Before we talked about sometimes spot transactions having a 3 couple second turnaround time. Why in your view is this 4 longer? 5 A. He is asking for an FX swap here. So, the trader has to 6 calculate the interest rate differential between U.S. dollars 7 and Indian rupee. So that takes, that will take a minute or so 8 at least. 9 Q. When Mr. Dray says he gets one wide. What did you, can you 10 explain what that meant? 11 A. Yes. So what I believe happened here is, Mr. Dray gave the 12 client the price and the client said to him, can you tighten 13 that up because I'm generally used to getting one wide from 14 another banks or away. 15 Q. Was it common for a customer to tell you the spreads they 16 were receiving from another bank? 17 A. Yes, it was. 18 Q. How commonly were spreads discussed in the market by market 19 participants, in your experience? 20 A. I think they were discussed very widely. Sales to clients, 21 sales to trader, clients to clients. I think spreads were in 22 many ways what the business was about. So it was liquidity. 23 Trader's job was to assess liquidity. One of the best ways to 24 address liquidity was to talk about spreads. So I think they 25 were widely discussed.</p>	<p>MAH3FOR3 Howarth - Direct Page 684</p> <p>1 that you entered this chatroom. Can we pull up 14:58:59 to 2 15:01:21. Can you walk the jury what's happening in this 3 discussion. 4 A. Okay. So, Kaitlyn Atherton was an FX salesperson based in 5 New York. She's asking for a price here for one of her 6 customers, Wells Fargo, and the price is -- she wants a 7 dollar/Chile peso price in 3 million dollars for a valid date 8 of 7 of December. 9 Rob Lynch who was our FX trader in New York at the 10 time acknowledges it. And 24 seconds later comes back with a 11 price 21 at 20, or buy them at 81.55. Kaitlyn is giving that 12 price to the customer. And comes back with the feedback he's 13 asking if we can show tighter. Rob agrees to do this. And 14 then shows 81.00 to 81.25 so he's tightened the price from 35 15 points wide, 55 minus 20, to 25 points wide in this instance. 16 Kaitlyn then lets Rob know what's going on because it's about a 17 30 second break between any communication here. Kaitlyn says 18 I'm he still showing this. Tell me if ref. And that means, 19 basically, if you want to refresh the price, if you want to 20 change it, the market's moved, just let me know. And then 21 10 seconds later she says passing. So the client has passed 22 the price. And she makes the assumption that he was 23 potentially on the left-hand side, LHS, so she's quite 24 correctly making the assumption he was probably a seller. 25 81.20, that was a better price to sell on the refresh, 81.00,</p>

<p>MAH3FOR3 Howarth - Direct Page 697</p> <p>1 where Credit Suisse ranked compared to its peers?</p> <p>2 A. Well, I think just eyeballing it now, a lot of it seems to</p> <p>3 be white which would suggest we're tighter than average. So I</p> <p>4 think that puts us in a relatively good place. My eyes are</p> <p>5 just not good enough to figure out that color between tightest</p> <p>6 and widest. I want to say we were perhaps tightest on more</p> <p>7 stuff than we were widest. But it's giving me good color on</p> <p>8 where we rank vis-a-vis the rest of his counterparts.</p> <p>9 Q. This e-mail exchange is dated May 2007. Did you continue</p> <p>10 to receive feedback like this during the 2007 and 2013 time</p> <p>11 period?</p> <p>12 A. Yes.</p> <p>13 Q. As the head of sales, did you observe any trends in the</p> <p>14 Credit Suisse spread grids over the 2007 to 2013 time period?</p> <p>15 A. I would say, I would say that over that time period,</p> <p>16 spreads slightly compressed. Obviously there were, as I said,</p> <p>17 earlier on there were huge periods of volatility within that</p> <p>18 time frame. But if I was to sort of hazard a guess between</p> <p>19 2007 and 2013, I think spreads marginally compressed in some of</p> <p>20 the G10 major pairs. You can see why. If you look at the</p> <p>21 process for these spread grids, there is a back and forth, we</p> <p>22 give our spreads and get feedback and tighten again. That does</p> <p>23 lead to some compression of spreads.</p> <p>24 Q. Can we bring up PTX 1754. If we can turn to your original</p> <p>25 e-mail on the bottom. Can you just describe take a moment to</p>	<p>MAH3FOR3 Howarth - Direct Page 699</p> <p>1 Q. A few moments ago you were talking about your view that the</p> <p>2 spreads had compressed during the relevant time period. What</p> <p>3 do you mean by compressed?</p> <p>4 A. Sorry. Yes. They got tighter. They narrowed in.</p> <p>5 Q. I'd like to show you a chat discussion the jury has seen a</p> <p>6 few times now. PTX 1373A. If we can pull up 7:52:45 to</p> <p>7 7:56:29.</p> <p>8 Can you take a moment to review that and let me know</p> <p>9 when you're ready.</p> <p>10 A. Yup, okay.</p> <p>11 Q. Can we call out the line at 7:53:09 and line that follows.</p> <p>12 Mr. Lawes says let's sign a pact on spreads.</p> <p>13 As someone who knew and worked with Mr. Lawes, how do</p> <p>14 you read his statement?</p> <p>15 A. I mean, as I said, it's not -- Jamie was the joker in the</p> <p>16 pack. I view this as bravado between a few traders in one</p> <p>17 chatroom. I certainly didn't have any issues with his pricing</p> <p>18 when dealing with customers. Just not my experience.</p> <p>19 Q. Can we also call out the line at 7:55:49. Mr. Lawes says</p> <p>20 wish you widen your spreads yet. Two lines down he says just</p> <p>21 tell sales then.</p> <p>22 And if we can get the final line. He says stand your</p> <p>23 ground man.</p> <p>24 Are those statements regarding sales consistent with</p> <p>25 your experience working with him?</p>
<p>MAH3FOR3 Howarth - Direct Page 698</p> <p>1 look at it and explain to the jury why you were sending this</p> <p>2 e-mail.</p> <p>3 A. Yeah. So what I was doing here is I was sending an e-mail</p> <p>4 to hashtag GFX sales all. That is the entire Credit Suisse FX</p> <p>5 sales network across the whole globe. And what I was trying to</p> <p>6 do here is increase the amount of emerging market business we</p> <p>7 saw in the London hours. And CE4 is shorthand for the central</p> <p>8 European 4 which was Poland, Hungary, the Czech Republic,</p> <p>9 Slovakia. Slovakia has since joined the E.U. so it's CE3, and</p> <p>10 zar and mxn in London hours only.</p> <p>11 So, I am trying to make a marketing push here to our</p> <p>12 sales team. I've prepared a grid, and I have said I am going</p> <p>13 to put that on their desk, and I just wanted it front and</p> <p>14 center so when they came in in the morning, they had something</p> <p>15 to remind of them of emerging markets. And when they talked to</p> <p>16 their clients, they could hopefully start selling the emerging</p> <p>17 market business.</p> <p>18 Q. You said I am getting this grid printed off and laminated.</p> <p>19 Did you typically laminate spread grids?</p> <p>20 A. No, not really. This is a marketing push so I wanted to</p> <p>21 get this in front of them and remind them daily. And I was</p> <p>22 kind of in my own head, I was thinking if it's a piece of</p> <p>23 paper, it will end up in the bin. If it's laminated, it's got</p> <p>24 more chances of survival. Normally I wouldn't go to this</p> <p>25 trouble to laminate, no.</p>	<p>MAH3FOR3 Howarth - Direct Page 700</p> <p>1 A. No, they're not. I don't know whether he's sort of trying</p> <p>2 to wind the other trader up or play devil's advocate here, but</p> <p>3 we found Jamie to be a reasonably friendly franchise trader.</p> <p>4 We sent him on a lot of client meetings, and he was viewed as a</p> <p>5 good flow trader by customers.</p> <p>6 This is not my experience with Jamie.</p> <p>7 Q. Over the relevant time period, did you ever ask Mr. Lawes</p> <p>8 to tighten a spread for a client?</p> <p>9 A. Yes.</p> <p>10 Q. What was his response?</p> <p>11 A. He was usually keen doing business. More often than not,</p> <p>12 he would tighten that spread up for me.</p> <p>13 Q. You can take down this exchange.</p> <p>14 Putting aside this exchange, did you observe anything</p> <p>15 during the 2007 to 2013 time period working with Mr. Lawes and</p> <p>16 the other CS traders that led you to believe that any CS trader</p> <p>17 was providing you with wider spreads than were appropriate?</p> <p>18 A. No.</p> <p>19 Q. Did you ever observe any facts during that time period that</p> <p>20 led you to believe that CS traders had entered into any</p> <p>21 agreement with traders at other banks to widen spreads?</p> <p>22 A. No.</p> <p>23 Q. Do you believe you would have known if they had entered</p> <p>24 into such agreements?</p> <p>25 A. I think I would. I mean, ultimately, salespeople are</p>

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1 usually the same or different about spreads?
2 A. They're definitely different.
3 Q. Can you explain that?
4 A. Well, I think you have -- like, you have -- as we talked
5 about, we assign different currencies to different traders.
6 And, you know, someone who's actually in the seat, dealing with
7 it all the time, that specific currency, would be stronger and
8 know their market better than someone who wasn't.
9 Q. Well, how about even among two traders or three traders
10 that trade the same currency at different banks? To what
11 extent are views similar or different?
12 A. They'd probably be different.
13 Q. Now, so we were talking about what traders are looking at
14 during the day. You mentioned news sources. We talked about
15 EBS and Reuters, the prices there.
16 How about chatrooms? Were the traders you supervised
17 in chatrooms with traders from other banks?
18 A. Yes, they were.
19 Q. And what, if any, understanding do you have as to why
20 traders at one bank would be chatting with traders at other
21 banks?
22 A. General market color, exchanging -- exchanging information
23 on what they thought was going to happen, you know, on a
24 specific currency, trade ideas.
25 Q. And can you explain why, if at all, in the FX market that

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1 was an important thing to do?
2 A. The foreign exchange market at times -- it was odd because
3 there wasn't -- in the foreign exchange market, there wasn't
4 exactly -- there wasn't an exchange for foreign exchange;
5 meaning, there was nowhere to go. If something moved, there
6 was nowhere where you could go and find out why something
7 moved. If you're sitting there on the desk and you're -- and
8 sterling only moves 50 pips and you have no idea and a client
9 calls up and they want to know, hey, what's going on in
10 sterling and you didn't know, you didn't see the business, you
11 could -- you'd ask another trader at a bank, do you have any
12 idea what just happened in sterling? So I think it was because
13 there was nowhere to go for information.
14 Q. So customers expected that you would be up to date on what
15 was going on in the market?
16 A. They would expect it and I would want to show them that we
17 knew what was going on in the market.
18 Q. Now, how about you, sir? Did you chat with traders at
19 other banks?
20 A. I would say I did, but probably less frequently than
21 others.
22 Q. How come you didn't do it as much as others may have?
23 A. Probably just comes down to personality. I kind of -- kind
24 of one of those people I kind of trust my own views, and I tend
25 to rely on myself.

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1 Q. Any other reasons why you decided to participate in the
2 chatrooms maybe less than others?
3 A. I mean, there's definitely a lot of off-color jokes in
4 there, a lot of sarcasm, too much personal information, stuff
5 like that.
6 Q. To what extent, if at all, did you have concerns that
7 things you wrote could get misinterpreted?
8 A. I mean, I think you're always concerned about that when
9 you're talking to somebody and somebody's looking down and
10 doesn't know who you are and what you mean. I'm always
11 concerned about that.
12 Q. So you had some of these concerns, but you were a
13 supervisor, right?
14 A. Yes.
15 Q. You knew the traders you supervised were chatting with
16 traders at other banks, right?
17 A. Yes, I did.
18 Q. Was that OK with you, given your own personal views?
19 A. Well, that was my own personal view about what I felt about
20 the chatrooms. For those, I felt at times, I still do, that it
21 was a legitimate form of conversation.
22 Q. Now, we've been discussing the role this morning so far,
23 Mr. Condie, the role of the trader, and now I'd like to look at
24 some documents that may reinforce some of the points that we've
25 been discussing.

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1 So if we can please pull up DTX 86 in evidence, and
2 this is a chat from 2008 between you and Markus Menzl.
3 Do you see that?
4 A. Yes, I do.
5 Q. Do you know Mr. Menzl?
6 A. Markus was an FX trader in Credit Suisse Zurich.
7 Q. All right. So you guys both worked at Credit Suisse at the
8 time?
9 A. Yes, we did.
10 MR. MOSS: So let's go down to timestamp 15:31:05. We
11 can go down to there.
12 Q. Are you with me there, Mr. Condie? It's at the top of the
13 page.
14 A. Yes.
15 Q. Mr. Menzl says: You made 15 points in 60.
16 Do you see that?
17 A. Yes.
18 Q. And you say: Yes, right?
19 A. I do.
20 Q. Excuse me. I misread it. I read it incompletely: You
21 made 15 points in 60 euryen.
22 Do you see that?
23 A. Yes.
24 Q. And you say yes.
25 Can you explain to the jury just that little exchange.

<p>MAIHFor1 Condie - Direct Page 772</p> <p>1 need a price on 50 million euro, euro/dollar, and they would 2 say that to a salesperson, the salesperson would either stand 3 up and yell to the spot desk or, if they had a line of view, 4 just, hey, price on 50 million euro/dollar for so-and-so. 5 Q. And then what happens? So the salesperson calls out for 6 the price. What happens? 7 A. Well, the spot desk has to get the price back. I mean, 8 that's literally talking between two and five seconds, because 9 it is a spot market, and it's moving so quickly. The spot 10 market relays their price in that amount to the salesperson who 11 repeats it to the client. 12 Q. All right. So let's talk about that. Did you say -- how 13 many seconds did you say in that interaction? 14 A. It's between two and five seconds you're trying to get the 15 price back to the client. 16 Q. So let's talk about the two to five seconds. 17 So the trader, the salesperson shouts out, asks for a 18 price. The trader has two to five seconds to respond. What's 19 the trader doing in that time? 20 A. Well, actually, what the trader's been doing all day long 21 is they're staring at the price; they're staring at the market. 22 Like, they're getting ready to make the price. That's their 23 job. That's their primary job. There's not much to really do. 24 They just hear the request, and they're judging liquidity and 25 spitting a price back out to the customer.</p>	<p>MAIHFor1 Condie - Direct Page 774</p> <p>1 quoted to the salesperson? 2 A. I was allowed to do that. 3 Q. Did you ever do it? 4 A. I did, yes. 5 Q. How come? 6 A. Various reasons. Sometimes I would -- I would get involved 7 if I knew it was a new customer that we're trying to get to 8 deal with us that we haven't seen in a while. We'd want to 9 show them the best price. So I could get in; I could narrow 10 the price. There would be other times we'd be in penalty box 11 where the customer hadn't dealt with us for some reason. 12 Something happened in options or forwards. We hadn't seen them 13 in a while. We wanted to get them back on board. I could jump 14 in there and narrow the price. 15 Q. You mentioned two examples where you would narrow the 16 spread. Do you recall ever in your seven years telling a 17 trader to widen the spread from the spread he or she quoted? 18 A. I do not. 19 Q. All right, Mr. Condie. So we've discussed the roles of 20 traders, we talk about salespeople, we've talked about how a 21 transaction works, and now I'd like to zoom out a little bit, 22 if we can, and talk about Credit Suisse's strategy and its 23 customers. You referenced this a little bit in your testimony, 24 but let's go through it in some detail. 25 Just remind the jury, please, when did you come to</p>
<p>MAIHFor1 Condie - Direct Page 773</p> <p>1 Q. And in your view -- by the way, you actually observed this 2 happen, right, as the chief dealer? You saw this all the time, 3 this interaction between the salesperson and the trader? 4 A. I mean, definitely. Everyone -- everyone pays attention to 5 what's going on when a deal comes across the desk. 6 Q. And sometimes you were on the receiving end of it because 7 sometimes it was a currency pair that you traded, right? 8 A. Yes. 9 Q. All right. In your experience, does the trader have time 10 in those two to five seconds to send a chat to other banks to 11 ask their opinions on spreads, to receive the information from 12 those other banks, and then to incorporate that into his or her 13 quote to the salesperson? 14 A. There's no time for that at all. 15 Q. You ever seen that happen? Have you ever seen a trader at 16 Credit Suisse, when they're asked on the spot and have to 17 respond in two to three seconds, get on and start typing 18 something? 19 A. No, I have not. 20 Q. So I want to talk a little bit more about this sequence 21 that you just went through. 22 So salesperson asks for the spread or the two-way 23 price. Trader provides it in two to five seconds. To what 24 extent, if at all, did you as the chief dealer in New York have 25 discretion to modify, to change, the spread that the trader</p>	<p>MAIHFor1 Condie - Direct Page 775</p> <p>1 Credit Suisse? 2 A. I joined in 2007. 3 Q. And where'd you come from? 4 A. I was working at Bank of America at the time. 5 Q. Did you come with any particular other people? 6 A. Yes. Yes, I came over with a group of people. 7 Q. A group of people. 8 How come you guys came over to Credit Suisse in 2007? 9 A. Well, in 2007, Credit Suisse was a relatively small player 10 in the FX market, and they had decided to make a push to become 11 a top ten player in the bank, in the foreign exchange market, I 12 should say. And one of the managers at Credit Suisse reached 13 out to my boss at Bank of America. He was aware of his 14 reputation and what he had done at other banks, and he had told 15 him what he was looking to do. And he assembled a team to come 16 over and try to achieve that goal. 17 Q. What had they done at other banks? 18 A. We just helped out with, actually, the ranking on the 19 Euromoney surveys at the different banks we were at. We moved 20 up. The main guy was Alain, who started at Deutsche Bank. He 21 helped make them a number one player in FX. So people were 22 aware of his name. Clients were aware of us, and we dealt with 23 many people. So it was just a push to make them a top player 24 so -- 25 Q. And you said Alain. Just so -- I don't think it's a name</p>

<p>MAIHFor1 Condie - Direct Page 792</p> <p>1 That we're very good in the Colombian peso, the Chile, ruble. 2 We're very strong in those currencies. The problem is I'm not 3 responsible for those currencies, so I'm not going to see their 4 business unless we tighten the spreads. 5 Q. What'd you do in response to requests like this and others? 6 A. We tightened the spreads. 7 Q. You recall doing that? 8 A. Yes. 9 Q. And did you do it for just BlackRock or for your other 10 customers, too, sir? 11 A. We narrowed spreads when asked. 12 Q. By the way, so they're actually providing, BlackRock is, 13 these rankings. So these 20, those are spreads from other 14 banks, right? 15 A. Yes, there are. 16 Q. So let me ask you, in your experience, where did you get 17 more information about your customers' spreads, from talking 18 directly to other banks, traders in chatrooms or from 19 information that your customers passed along that they used to 20 try to force competition? 21 A. Mostly from customers. 22 Q. Now, Mr. Condie, we talked about the strategy. We saw some 23 documents about this strategy in play. You recall whether it 24 was that you had any success in growing market share? 25 A. I recall being very successful.</p>	<p>MAIHFor1 Condie - Direct Page 794</p> <p>1 Q. So I want to ask you directly. You're under oath. Did you 2 ever enter into an agreement with anyone from any other bank to 3 fix, widen, or stabilize spreads? 4 A. I did not. 5 Q. All right. And you supervised all the New York traders who 6 worked at Credit Suisse between 2007 and 2013, right, sir? 7 A. Yes, I did. 8 Q. And when they're being asked for quotes every day from the 9 salespeople, you're sitting there watching what happens, right? 10 A. Yes, I was. 11 Q. And you had conversations with all of these guys about the 12 market and about their business and how they were doing, right? 13 A. Yes, I did. 14 Q. Did you ever have any conversation or did you ever see 15 anything that would lead you to believe that one of those 16 traders entered into an agreement to fix or widen spreads? 17 A. I did not. 18 Q. All right. In your view, Mr. Condie -- by the way, what do 19 you make of this accusation that Credit Suisse and 16 -- 15 20 other banks entered into a single agreement to widen spreads? 21 What do you think of that? 22 A. I think it's impossible. Just too many people involved. 23 Too many banks involved. I don't think it could be 24 orchestrated. 25 Q. Now, in your view -- last question, Mr. Condie.</p>
<p>MAIHFor1 Condie - Direct Page 793</p> <p>1 Q. Let's take a look at the Euromoney survey from the very 2 next year, DTX 573. This is the market share for the 2008 3 year, but it's again marked 2009 because the Euromoney survey 4 is backward-looking. 5 So where is Credit Suisse here after one year of you 6 guys competing with your strategy? Where do you see them? 7 A. We've jumped into the top ten, and we're at number nine. 8 Q. And I think you were at 1.51 the year before, is that 9 right? 10 A. Yes. The market share had a nice jump. 11 Q. Is that consistent or inconsistent with your recollection? 12 A. Consistent. 13 Q. All right. So at this point, by the way, was Credit Suisse 14 a dominant player in the FX market? 15 A. Three percent market share would not make you dominant. 16 Like the big boys up top, the top four banks, were like 15. 17 We're talking like 15, maybe 18 percent of the market. So 18 we're getting there. We were much better, but we still weren't 19 close to the big guys. 20 Q. Did you ever get there? 21 A. We never did, no. 22 Q. All right. So you're aware, right, of the accusation in 23 this case that you and other traders at Credit Suisse were 24 widening -- entered into an agreement to widen spreads, right? 25 A. Yes, I am.</p>	<p>MAIHFor1 Condie - Cross Page 795</p> <p>1 We talked about Credit Suisse's strategy of growing 2 its business. How, if at all, could Credit Suisse have 3 executed and been successful on its strategy of growing its 4 business if it were colluding on spreads with competitors? 5 A. It would have never worked. We never would have gotten 6 better or moved up in the rankings. There would have been no 7 reason to change counterparties and deal with Credit Suisse if 8 we weren't offering a better service. 9 MR. MOSS: Thank you, Mr. Condie, for your time this 10 morning. I have nothing further. 11 THE COURT: Why don't we go ahead and have 12 cross-examination. 13 MR. NOSS: Your Honor, may I examine the witness? 14 THE COURT: You may. 15 CROSS-EXAMINATION 16 BY MR. NOSS: 17 Q. Good morning, Mr. Condie. 18 A. Good morning. 19 Q. I took your deposition in this case in June of 2018, 20 correct? 21 A. Yes, you did. 22 Q. And you understood you were under oath in that deposition, 23 right? 24 A. Yes, I did. 25 Q. And you understand that that oath was the same oath that</p>

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1 Q. Typically, how long did it take between the time the
2 salesperson would ask you for a quote and someone from your
3 desk would respond to that request?
4 A. It would take seconds.
5 Q. Why was the response time in seconds?
6 A. You needed to make them the fastest most competitive price
7 so the customer can access the market. It is not something you
8 can delay on. They have too many other options to deal on so
9 you are going to -- you are going to get that rate out to them
10 as fast as possible.
11 Q. What happened if you did delay?
12 A. They could transact elsewhere.
13 Q. After you provided your quote to the salesperson, what's
14 your understanding of what would happen next?
15 A. At that point they are going to relay the price to the
16 customer. And then customer can decide what they would want to
17 do. They could either decide to buy or sell on the price we
18 had shown them, or they could change direction and give an
19 indication of what they wanted to have happen.
20 So really was up to them to decide if they wanted to
21 transact on the price, to deal in a different manner, maybe
22 they wanted to just do it at best. It really depended on the
23 situation and it was up to the customer.
24 Q. In your experience, did customers ever push back on a quote
25 or ask you to tighten a price?

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1 A. They could do.
2 Q. In those instances, would you tighten the price?
3 A. Most likely, yes.
4 Q. If we can focus on two-way quotes for a moment. Can you
5 explain what the term spread means in your view.
6 A. Of course. Spread is just the difference between the bid
7 and offer. Where would you buy a currency and where you would
8 sell a currency. So just the number of points in between
9 creates that -- the spread.
10 Q. Could you say the spread is charged to a customer?
11 A. No.
12 Q. How would you go about determining spread to use for a
13 two-way price?
14 A. You would use any number of factors. I mean, there was --
15 depending on the situation in the market, whether there was an
16 economic event, a data release, central bank announcement, we
17 would rely on price, risk we might have, inventory we might
18 retain, and then we would utilize any of our interbank
19 counterparts to get an assessment of what we thought liquidity
20 looked like in the marketplace.
21 Q. How would you go about collecting that information about
22 liquidity that you just mentioned?
23 A. You would be in touch with different counterparts across
24 the street.
25 Q. What do you mean by across the street?

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1 A. Oh, other interbank counterparties, so other banks in the
2 industry.
3 Q. At what point in the trading day would you seek to assess
4 liquidity?
5 A. Usually, you know, points of inflection, when things were
6 moving fast and you are trying to assess whether or not the
7 dynamics have changed, right. So the liquidity events would
8 consistently change, they're constantly changing, so you are
9 always trying to assess whether or not the viewpoint in the
10 marketplace has changed.
11 Q. While you were at Credit Suisse, did you typically trade
12 with a particular kind of customer?
13 A. We would trade with all sorts of customers. They were
14 probably divided by three sectors. We traded with the hedge
15 fund community, we would trade with asset managers or real
16 money customers, and we would trade corporations.
17 Q. In your experience, did Credit Suisse's customer base
18 differ from the customer base of other banks?
19 A. Absolutely.
20 Q. How so?
21 A. So, the DNA at all the banks is very specific and
22 different. So Credit Suisse was focused on the institutional
23 customers, the hedge fund community. My previous employer to
24 that, Bank of America, would have been focused on corporations,
25 mid-market customers. And then even going back to NatWest and

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1 RBS, they would be focused on European corporates and European
2 asset managers.
3 Q. How would you describe the customers you traded with?
4 A. They were typically large sophisticated institutions.
5 Q. Was it always necessary for a customer to trade through a
6 salesperson or a trader?
7 A. No. They could come to their trader directly if they chose
8 to.
9 Q. Did Credit Suisse also have any trading electronic trading
10 platforms that a customer could use?
11 A. They did.
12 Q. Do you have an understanding of how many trades were done
13 via CS's electronic platforms versus voice trade over the
14 relevant time period, 2007 to 2013?
15 A. I don't know the exact numbers. It certainly grew over the
16 years. The industry largely electrified and most people use
17 the electronic platforms, and at that time majority of the
18 trades would go through electronic format.
19 Q. As a trader, did you have any role in developing or
20 programming Credit Suisse's electronic platform?
21 A. No, I did not.
22 Q. Did you ever use the electronic platform?
23 A. No, I did not.
24 Q. Did you track Credit Suisse's market share during the
25 relevant time period?

<p>Mai3for2 Walker - Direct Page 844</p> <p>1 A. As best I could. 2 Q. How did you do so? 3 A. There would be any number of consulting surveys that would 4 rate out the different banks in the industry, as well as just 5 feedback from our customers directly. 6 Q. Do you recall Credit Suisse's standing over the 2007 time 7 period? 8 A. At the point that I started the firm, it was a small player 9 in the marketplace. Certainly in the single percentage digits 10 in market share. So in the lower bottom, lower third, lower 11 half of the bottom third of the industry. 12 Q. Did that ever change? 13 A. Absolutely. 14 Q. How did it change? 15 A. We grew our market share quite a bit from 2007 to 2013. 16 Q. Do you have a view as to why you were able to do that? 17 A. We were absolutely the most aggressive bank on the street 18 at that time. Credit Suisse New York. 19 Q. What do you mean by being an aggressive bank? 20 A. So we were the most aggressive in tightest pricing, 21 servicing our clients, making sure they had all the resources 22 and connectivity in the market that they needed. 23 Q. How do you know that the prices that you were quoting were 24 aggressive or -- 25 A. Because we gained market share and because the customers</p>	<p>Mai3for2 Walker - Direct Page 846</p> <p>1 A. I viewed them as counterparties because they were providing 2 liquidity to the marketplace. I could use them for liquidity. 3 They would give market color and commentary. It allowed me to 4 provide a service to our customers, provide the best possible 5 price. 6 Q. When you say you would use them for liquidity, does that 7 mean you would trade with the other traders? 8 A. Occasionally. 9 Q. What would you typically discuss with other traders on 10 Bloomberg chats? 11 A. The bulk of it would be, would be banter, could be 12 anything, you know, personal, what's going on at home life. 13 And we would also, we utilize it in moments of inflection where 14 we would look for commentary around liquidity conditions. 15 Q. You mentioned the term market color earlier in your 16 testimony. What does that term mean to you? 17 A. It means any number of things. It really is about, like, 18 opinions on maybe a data release, opinions on a central bank 19 comment, anything that might be fundamental. Research that 20 could be spread across the street, and then as well as opinions 21 on what liquidity looks like, whether the market is slow moving 22 or faster moving, if it's illiquid or has some depth to it. 23 Q. Were there any limitations as to the types of information 24 you could exchange with traders at other banks? 25 A. Yes.</p>
<p>Mai3for2 Walker - Direct Page 845</p> <p>1 would let us know that. 2 Q. Do you recall any specific clients who would reach out to 3 you to give you that feedback that you were aggressive or 4 tight? 5 A. I mean, there would be any number of customers over the 6 time. Large asset managers like the BlackRocks of the world 7 Putnam, Fidelity, as well as the hedge fund community. Moore 8 Asset Management, Tudor Asset Management. 9 Q. During your time as an FX trader at Credit Suisse, did you 10 use Bloomberg chats? 11 A. Yes. 12 Q. Who would you generally communicate with in your Bloomberg 13 chats? 14 A. Other counterparties at other banks. 15 Q. Did you also use them internally at CS? 16 A. Yes. 17 Q. Do you recall how many traders from other banks you would 18 typically chat with in these chatrooms? 19 A. Roughly 11 or 12 in total. 20 Q. Did you view those 11 or 12 individuals as your 21 competitors? 22 A. No. 23 Q. How did you view them? 24 A. I viewed them as counterparties. 25 Q. What do you mean by that?</p>	<p>Mai3for2 Walker - Direct Page 847</p> <p>1 Q. What were those limitations? 2 A. You certainly could not share specific customer information 3 in divulging a name. You would not give any real time 4 information on any specific trade in real time. 5 Q. Why would you not give real time information? 6 A. Because it -- it would not help you. It would disclose too 7 much on that customer about what they are trying to do. 8 Q. Are you familiar with the term P chat or persistent chat? 9 A. I am. 10 Q. Approximately how many persistent chats were you a member 11 of in 2007 to 2013? 12 A. Between 10 and 11. 13 Q. Are you able to estimate the approximate number of chat 14 discussions you would have had in the 2007 to 2013 time period? 15 A. There was probably 250, 260 days in a trading year, 16 multiply that by those amounts, it's got to be in the tens of 17 thousands. 18 Q. Did you ever discuss spreads in chatrooms with traders from 19 other banks? 20 A. Yes. 21 Q. For what purpose were you doing that? 22 A. You are trying to assess liquidity and the conditions 23 around liquidity. 24 Q. How would discussing spreads with other traders inform you 25 about liquidity?</p>

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1 wide. I gave him a range of 150 to 200 points.
2 Q. Can you describe your response from 8:28:24 to 8:26:39?
3 A. Another 27 minutes later I chime back in saying sorry 225.
4 Market -- 225 to 250 markets get better should be 200.
5 I'm giving him some ranges in my thoughts, if things
6 stabilize, it should probably be tightened up to 200.
7 Q. You also say, sorry, was my guess and just asked Niall and
8 he tends to be aggressive so I was way off.
9 What do you mean by that?
10 A. So, yeah, we're not, at that point, yeah, I'm just guessing
11 at liquidity, right, trying to give my estimate or my opinion
12 on it. And at some point, clearly about a half an hour later,
13 I probably had asked Niall what his opinion was and he gave
14 something different. And he is, I view him as an aggressive
15 price maker so I indicated that.
16 Q. Would traders on the same desk show different spreads for
17 the same volume in the same currency pair?
18 A. Absolutely.
19 Q. Why was that?
20 A. You'd have different mandates, so different reasons to have
21 positioning or not. Different levels of experience. You had,
22 you would have different P&L tolerances. So at times things
23 change across the desk for different people.
24 Q. Might you have a different view of the market?
25 A. Absolutely.

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1 Q. Do you know if Mr. Crank was asking you for your views on
2 spreads in order to provide a quote to a customer?
3 A. I do not. I don't believe Jason ever traded in dollar/mxn.
4 Q. In this exchange, were you agreeing with Mr. Crank about
5 what spreads you would show to customers?
6 A. Absolutely not.
7 Q. What would you say the purpose of this exchange was?
8 A. Trying to assess, figure out liquidity in that currency
9 pair in that amount. Really just trying to figure out the
10 conditions at that time over a 30-minute period.
11 Q. Can we bring up PTX 29A. Can we highlight the time stamp
12 11:21:05 to 11:22:21. Can you take a moment to read that and
13 then I'll have a few questions.
14 A. Okay.
15 Q. Can you read your question at 11:21:05, please?
16 A. What is spread in 200 euro/dollar.
17 Q. What are you asking?
18 A. I'm asking because I am trying to figure out, again, assess
19 liquidity. Jason gives an opinion, again, a range between 8
20 and 10 points.
21 Q. What was your response back to Mr. Crank after he gave you
22 that range of 8 to 10?
23 A. I was thinking that it was closer to 8 points. So that was
24 my guess on that liquidity at that time.
25 Q. Then can you read Mr. Crank's statement at 11:22:15?

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1 A. Yeah. Think 8 will most likely be a struggle but what is
2 expected by the select.
3 Q. What do you understand him to mean?
4 A. I think he's saying that 8 points is probably going to be
5 tight, and it would be difficult to liquidate it from beginning
6 to end. So to clear the risk, to get it down to zero and to be
7 flat in P&L., he thinks it would be a struggle. So most
8 likely, he's indicating most likely would lose money, and he
9 indicates what is expected by the select. He's indicating that
10 maybe certain customers would expect that spread.
11 Q. Do you know one way or the other if Mr. Crank was quoting a
12 customer a spread of 8 to 10 in that currency pair at that
13 time?
14 A. I have no idea. I mean, there's too much time that's gone
15 by. It's not likely.
16 Q. When you say too much time has gone by, what are you
17 referring to?
18 A. Because if somebody's asking him for a price in that
19 amount, he has to reply right away. He doesn't have time to
20 ask me my opinion. And the exchange happens over a few
21 minutes, it won't happen.
22 Q. In this exchange, were you agreeing with Mr. Crank about
23 what spreads you would show to customers?
24 A. No.
25 Q. What would you say was the purpose of this exchange?

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1 A. Trying to figure out liquidity in that amount at that time.
2 Q. Let's take a look at PTX 933A. Can we show the time stamps
3 at 12:38:13 to 12:42:39. Can you take a moment and read that
4 and let me know when you're ready.
5 A. Okay.
6 Q. First, the first question is asked by a Maria Wrench. Who
7 is that?
8 A. I believe I had worked with Maria, she is a counterpart. I
9 believe I worked with her maybe at Dresdner. I am not
10 completely sure.
11 Q. Do you know where she was working at that time?
12 A. UBS.
13 Q. Can you read what she's written to you there in the first
14 time?
15 A. So brain what will be spread in 1 yard euro/dollar.
16 Q. What do you understand her to be asking?
17 A. So she's asking an opinion on what a spread would be in
18 1 billion euros against the U.S. dollar.
19 Q. Is a yard, a 1 billion, a frequently traded amount in the
20 FX market?
21 A. Fairly infrequent.
22 Q. How often have you traded that amount in a currency pair in
23 your career?
24 A. Over the 28 years, with financial institutions, maybe a
25 couple times at most.

<p>MAIHFor3 Walker - Direct Page 868</p> <p>1 A. 7.1. 2 Q. What was the highest that was submitted? 3 A. 12 points. 4 Q. And what was Credit Suisse's submission? 5 A. We indicated 7. 6 Q. And in the 200 million, what was the median that was 7 submitted? 8 A. 12.5. 9 Q. What was the mean? 10 A. 13.4. 11 Q. What was the highest? 12 A. 20. 13 Q. What was Credit Suisse's submission? 14 A. Indicated 12 points. 15 Q. Finally, if we move to Canadian dollars, what was the 16 median submission for the 50 million? 17 A. 5 points. 18 Q. What was the mean? 19 A. 5.5. 20 Q. What was the highest? 21 A. 10 points. 22 Q. What was Credit Suisse's submission? 23 A. Indicated 5 points. 24 Q. And lastly, in the notional amount of 100, what was the 25 median?</p>	<p>MAIHFor3 Walker - Cross Page 870</p> <p>1 right? 2 A. That's correct. 3 MS. ROY: I have no further questions. 4 THE COURT: Cross. 5 MR. BEREZNEY: Your Honor, I have some binders. May I 6 approach? 7 THE COURT: Yes. 8 MR. BEREZNEY: May I proceed, your Honor? 9 THE COURT: Yes. 10 CROSS-EXAMINATION 11 BY MR. BEREZNEY: 12 Q. Good afternoon, Mr. Walker. My name is Steve Berezney on 13 behalf of plaintiffs. 14 We have not met before, have we? 15 A. No, sir. 16 Q. Are you represented by counsel today? 17 A. I am. 18 Q. Who is paying your counsel? 19 A. Credit Suisse. 20 Q. Now, am I correct that you communicated with Credit Suisse 21 spot traders at the London trading desk about FX? 22 A. That is correct. 23 Q. And you did so on a regular basis, correct? 24 A. Correct. 25 Q. YOU also communicated with Credit Suisse spot traders at</p>
<p>MAIHFor3 Walker - Direct Page 869</p> <p>1 A. 10 points. 2 Q. What was the mean? 3 A. 9.9. 4 Q. What was the highest? 5 A. 14. 6 Q. And what was Credit Suisse's submission? 7 A. Indicated 8 points. 8 MS. ROY: Thank you. You can take that down. 9 Q. Now, plaintiffs in this case have claimed that some of the 10 chats we reviewed earlier today and others like them reflect 11 agreements by traders -- with traders from other banks to show 12 the specific spreads to customers in the market. 13 Did you at any time enter into an agreement with any 14 trader at any other bank about FX spreads? 15 A. Absolutely not. 16 Q. Do you have a view as to what would have happened if four 17 to five traders got together and agreed on spreads to show 18 customers? 19 A. Would not have seen any business. You would have lost 20 market share across -- across all customer bases. 21 Q. Why do you believe that? 22 A. Because they would go somewhere else. They have plenty of 23 options to deal elsewhere. They're going to deal on the best 24 possible price. 25 Q. When you're saying "they," you're referring to customers,</p>	<p>MAIHFor3 Walker - Cross Page 871</p> <p>1 the Credit Suisse trading desks in Singapore and Zurich about 2 FX as well, correct? 3 A. Agree. 4 Q. And you did that on a regular basis as well, correct? 5 A. Agreed. 6 Q. Did you talk to FX traders at Credit Suisse on their Tokyo 7 and Hong Kong desks as well about FX? 8 A. I would assume so. 9 Q. Are you familiar with the name Jamie Lawes? 10 A. I'm familiar with the name. 11 Q. Mr. Lawes was on Credit Suisse's London spot desk, correct? 12 A. That is agreed. 13 Q. And you would communicate at times with Mr. Lawes about 14 Credit Suisse's FX business, correct? 15 A. I don't recall, but I would assume so. 16 Q. I'm sorry. Can you say that one more time. 17 A. I assume so. 18 Q. Thank you. 19 Were you aware that Mr. Lawes was in multibank 20 chatrooms? 21 A. I was not aware. 22 Q. Do you know a woman by the name of Natalie Williams? 23 A. I do. 24 Q. And you both worked at Credit Suisse as FX traders for a 25 period of time, correct?</p>

<p>MAIHFor3 Mathur - Direct Page 900</p> <p>1 matter.</p> <p>2 Q. And to what extent does your firm's compensation depend on</p> <p>3 the substance of the testimony you're going to give her today?</p> <p>4 A. Not at all.</p> <p>5 Q. How about your personal compensation? To what extent does</p> <p>6 that depend on the opinions that you're going to offer here</p> <p>7 today?</p> <p>8 A. It does not.</p> <p>9 Q. So, Dr. Mathur, before we get into the meat of your</p> <p>10 testimony, I want to ask you something. Were you here when</p> <p>11 Dr. Singer testified for the plaintiffs?</p> <p>12 A. I was.</p> <p>13 Q. So can you tell us what, if any, reaction you had to</p> <p>14 Dr. Singer's testimony?</p> <p>15 A. I was a bit surprised by Dr. Singer's testimony. He</p> <p>16 offered the opinion that the evidence in this matter is</p> <p>17 consistent with an alleged agreement to widen spreads, but we</p> <p>18 didn't see any empirical analyses or data-driven analysis to</p> <p>19 support those opinions. And that's what economists do,</p> <p>20 economists analyze data, and so I was a bit surprised by that.</p> <p>21 Q. Were there any other of Dr. Singer's opinions that you were</p> <p>22 surprised he didn't support with data?</p> <p>23 A. Well, for example, he offered the opinion that, in his</p> <p>24 view, the evidence is not -- is consistent with an alleged</p> <p>25 agreement to widen spreads. For an economist, the most direct</p>	<p>Mai3for4 Mathur - Direct Page 902</p> <p>1 Q. All right. So, we'll get back to Dr. Singer. But let's</p> <p>2 move on.</p> <p>3 And can you just summarize for the jury, please, what,</p> <p>4 if any, opinions you'll be offering in your testimony here</p> <p>5 today.</p> <p>6 A. I have two primary opinions. The first is that the FX</p> <p>7 marketplace is not conducive to an overarching conspiracy to</p> <p>8 widen spreads.</p> <p>9 The second opinion is that the evidence that I've</p> <p>10 analyzed is not consistent with such an alleged conspiracy.</p> <p>11 Q. So, let's start with that first opinion, Dr. Mathur. The</p> <p>12 FX market is not conducive to a conspiracy.</p> <p>13 Can you explain what that means, to not be conducive</p> <p>14 to a conspiracy.</p> <p>15 A. By "conducive" what economists typically mean is whether a</p> <p>16 marketplace has the features or the characteristics that you</p> <p>17 would expect to see in a market that might make it more likely</p> <p>18 or more possible for there to be a conspiracy.</p> <p>19 Q. When you say a conspiracy, do you have in mind the</p> <p>20 particular term of art that economists use?</p> <p>21 A. Yes. When economists, and when I'm referring to a</p> <p>22 conspiracy, I'm referring to an agreement to increase -- well,</p> <p>23 an agreement among competitors to increase prices above their</p> <p>24 competitive level. That's what economists typically mean by a</p> <p>25 collusive agreement.</p>
<p>MAIHFor3 Mathur - Direct Page 901</p> <p>1 evidence to assess that question would be to in fact study</p> <p>2 whether spreads were wider during this alleged period, and we</p> <p>3 didn't see any such analysis.</p> <p>4 Another example, I believe Dr. Singer offered the</p> <p>5 opinion that, on profitability, the alleged conspiracy was</p> <p>6 profitable for the banks. Profitability is again an empirical</p> <p>7 question. Economists typically study it using financial data</p> <p>8 or profit and loss statements, and we didn't see any such</p> <p>9 analysis.</p> <p>10 Q. Do you recall what Dr. Singer did base his profitability</p> <p>11 opinion on?</p> <p>12 A. I believe it was based on some statements by one of the</p> <p>13 traders in a chat conversation.</p> <p>14 Q. How about spread grids? The jury's heard a lot about</p> <p>15 spread grids. Do you recall any reaction -- having any</p> <p>16 reaction to Dr. Singer's testimony about spread grids?</p> <p>17 A. It's a similar reaction. I think the allegation here is</p> <p>18 that the spread grids were used to effectuate an alleged</p> <p>19 agreement to coordinate on spreads. The most direct evidence</p> <p>20 to assess that question would be to in fact look at the data in</p> <p>21 the spread grids, and it's very detailed data in the spread</p> <p>22 grids, to see if the data reflect an agreement, an alleged</p> <p>23 agreement on spreads.</p> <p>24 Q. Did he do that? Did he present that analysis?</p> <p>25 A. We didn't see any such analysis.</p>	<p>Mai3for4 Mathur - Direct Page 903</p> <p>1 Q. So, why would firms want to raise their prices above</p> <p>2 competitive levels?</p> <p>3 A. Well, the idea would be to raise prices above competitive</p> <p>4 levels in order to make more money and earn more profits.</p> <p>5 Q. That seems pretty good. How come all firms don't do it?</p> <p>6 Or do all firms do it?</p> <p>7 A. Well, in fact, collusive agreements are rare. Most</p> <p>8 marketplaces don't have the conditions and the features that</p> <p>9 result in such agreements.</p> <p>10 Q. Let me show you Dr. Singer's trial testimony at page</p> <p>11 368:13-15, if we can please pull that up on everyone's screen.</p> <p>12 This is an answer from Dr. Singer last week:</p> <p>13 "A. What a pact does or an agreement does is solve what an</p> <p>14 economist calls the incentive problem. Cartels are hard.</p> <p>15 They're hard generally to put together."</p> <p>16 Do you agree with that?</p> <p>17 A. I do.</p> <p>18 Q. Now, why do the conditions of the marketplace matter for</p> <p>19 this conduciveness analysis?</p> <p>20 A. Well, the conditions of the marketplace matter because the</p> <p>21 incentives are complicated, and in particular, there are</p> <p>22 competing incentives. So on the one hand, collectively, the</p> <p>23 firms in the marketplace may have an incentive to attempt to</p> <p>24 increase prices in an effort to earn higher profits. But there</p> <p>25 is an opposite incentive. Each individual firm also has an</p>

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1	is about six years?		1	critically affects the spreads on those trades.	
2	A. That's right. I believe 73 months.		2	Q. How about the top, those circles at the top?	
3	Q. So how many approximately transactions would there be, FX		3	A. So the circles at the top refer to different sizes of the	
4	transactions, in the period that plaintiffs are alleging there		4	trade. I believe the traders call it the notional amount. And	
5	was a conspiracy?		5	the larger the notional amount, the larger the size of the	
6	A. Well, with about 250 trading days per year and 325,000		6	trade, the more risk that is associated with it, and therefore,	
7	transactions per day, that gets us to about half a billion		7	typically the wider spreads that are associated with it. So	
8	transactions over this alleged period.		8	that's another factor that drives the underlying prices and	
9	Q. Now, thinking back to the reaching agreement prong here		9	spreads for a transaction.	
10	pillar. What, if any, conclusions can you draw from the market		10	Q. How about the bottom, that gray line on the bottom?	
11	size?		11	A. So the bottom is the time of the day. And I think as we	
12	A. Well, the market size tells us that it would be extremely		12	heard from many of the traders, economic news comes out at	
13	challenging to form a common understanding in order to be able		13	certain times of the day, certainly global areas are open and	
14	to reach an agreement on spreads in a marketplace with so many		14	certain desks are closed during different times of the day	
15	transactions that are also driven by a multitude of factors.		15	also, which also affects the liquidity and volatility in the	
16	Q. Dr. Mathur, let me push on that for a second. If each one		16	market, and therefore drives the underlying spread.	
17	of these dots just simply represents an FX transaction, why		17	Q. Let's move to the right and light up the right-hand side.	
18	can't they just agree on sort of this is the spread for an FX		18	What are we looking at here, Doctor?	
19	transaction? What's so hard about that?		19	A. On the right-hand side, I have the 16 dealer banks that are	
20	A. That's a slightly overly simplistic view of what each of		20	at issue that have been discussed, as well as a little box at	
21	these trades represent. Not only is it a large marketplace,		21	the bottom, because of course there are many other market	
22	there are many factors that add to its complexity. As I		22	makers. Each of these dealers have dozens of traders that	
23	mentioned, there are hundreds of traders, trading across more		23	specialize in certain currencies, and really have their own	
24	than 50 currency pairs, each driven by their risk position and		24	view on risk and on the positions they already have, and	
25	their perception of conditions in the marketplace, perceived		25	liquidity and volatility in the market which affects the	
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1	volatility, perceived liquidity, each of which goes to make		1	underlying spreads and prices that they quote to customers.	
2	these transactions very different from each other.		2	And then, of course, we also have the sales folks who are the	
3	Q. Have you prepared anything to try to explain the potential		3	people who directly interact with the customers and play a role	
4	differences in transactions?		4	in the final spread or in prices that are provided to	
5	A. Yes. I have a demonstrative I believe.		5	customers.	
6	Q. Okay. What are we looking at here, Dr. Mathur?		6	Q. How about all the way on the right-hand side, the dealers?	
7	A. Well, there's a lot going on here. And I think in some		7	A. I think I just described that. It includes here both the	
8	sense, that's the point. I'm happy to maybe break it down and		8	16 dealer banks, that we have discussed, as well as the many	
9	we can talk about each factor.		9	other market makers outside of these 16.	
10	Q. All right. Sounds like a good plan. Let's start with the		10	Q. What about the incentives for different dealers vis-a-vis	
11	left-hand side. So what are we looking at here?		11	different customers?	
12	A. So the left-hand side are examples of some of the customers		12	A. Yeah. As I mentioned right at the beginning, you know,	
13	in this market. And they include large sophisticated entities,		13	dealers, these customers tend to be very frequently large and	
14	BlackRock, Pimco, KKR, entities we've heard about. And		14	sophisticated, and they have particular reasons for trading.	
15	importantly, these entities are trading FX for their own unique		15	And I think, as we've heard, different customers get different	
16	reasons and they have individual relationships with various		16	spreads.	
17	dealer banks. That affects the spread or the price and the		17	So, for example, if Credit Suisse really wants to	
18	prices that they receive on the trades that they make.		18	trade with the particular customer and really make sure it	
19	Q. If we can now highlight the middle section. Move to there.		19	makes the sale, it may offer -- and it does offer -- a	
20	So what are we looking at here?		20	different, better price in order to close on that transaction.	
21	A. So in the middle section of the middle panel are just flags		21	Q. So, what's the punch line with this demonstrative? Why do	
22	and symbols to denote the various currency pairs. Each trade		22	all these things matter?	
23	occurs in one currency pair, but the underlying market		23	A. There is a long set of factors, so yes, the punch line is	
24	conditions in those markets drive the spreads and the prices.		24	what matters. I think the punch line is this is a really	
25	So, different currency pairs have different conditions and that		25	complex marketplace, and the prices and spreads underlying the	

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1 Q. Let's pull up if we can, please, marked for identification
2 DTX 2020. And the jury will perhaps recall this from the
3 opening as well.
4 Can you explain to the jury what we are looking at
5 here, please.
6 A. Yes. This is consistent with the analysis I did. What
7 this shows is the 2571 chats that I understand plaintiffs have
8 identified as evidence in this case, divided by the number of
9 days in the alleged period, which gives the number of
10 approximately two chats that occurred per trading day.
11 Q. You said this is consistent with the empirical analysis you
12 did based on a random sample?
13 A. That's correct.
14 Q. So, we've talked about now your first empirical analysis of
15 the frequency of chats.
16 I'd like to pull up Dr. Singer's trial testimony at
17 trial transcript 403:3. I think I was asking the question a
18 second time, and the question is: "I am asking you today what
19 you are telling the jury. You are not showing the jury any
20 empirical analysis to determine how frequently the banks shared
21 spreads in chatrooms, right?"
22 "A. Today I'm not offering the jury an analysis of frequency,
23 but I took your question to mean have I ever performed an
24 analysis of frequency? I apologize but that's how I heard your
25 question."

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1 What, if any, reaction do you have to this testimony,
2 Dr. Mathur?
3 A. There's data available about the chats. Economists analyze
4 data because it is valuable and it is objective. And in my
5 view, that is the most reliable way to understand what the
6 chats tell us as an economist with reference to the allegations
7 in this case.
8 Q. I'd like to move to your second chat analysis, and I want
9 to frame it by pulling up plaintiffs' alleged network slide.
10 Do you recall seeing this throughout the trial?
11 A. I do, I believe Dr. Singer presented it as well.
12 Q. I think that's right. Can you explain to the jury what
13 we're looking at here, please, in your own words.
14 A. Well, this appears to be four circles, each of which
15 represents a chatroom. And I believe the inference is that
16 because there was at least one trader from Credit Suisse
17 present in each of these chatrooms at some point in time over
18 the six-year period, that that leads us to conclude that there
19 is somehow a network of chatrooms that perpetuated or enabled
20 this alleged agreement.
21 Q. Well, what do you think?
22 A. Well, I disagree, and the reason for that is, you know,
23 economists analyze networks all the time. They do it, again,
24 using data. And so you would study the size of the network,
25 the depth of the network, the connections across the alleged

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1 network.
2 And in this setting, what that would mean is it would
3 be important to look at a host of questions. For example, were
4 there even spread discussions occurring in these chatrooms. If
5 so, on which days? Did they pertain to the same currency pair?
6 Did they pertain to the same notional amount? Because we know
7 that spreads vary based on those factors. Which traders were
8 present? Was it the same traders?
9 Those are the types of questions that you would use
10 the data to assess. And then based on what you found, you
11 would or would not conclude whether a network of chats could in
12 fact support the alleged agreement.
13 Q. Let's stay on that concept of the ability to use empirical
14 data, and let's pull up Dr. Singer's testimony at trial
15 transcript 403:22.
16 "Q. Right. I know you talked about interdependence. You
17 haven't actually done any analysis to determine whether any
18 information discussed in one chatroom was actually transmitted
19 to another chatroom, right?"
20 "A. Well, when you say analysis, if you mean empirical
21 analysis, I can't give you a frequency of that, but I have seen
22 record evidence consistent with that.
23 "Q. Right. You are not offering any empirical analysis to --
24 regarding whether any information discussed in one chatroom was
25 actually transmitted to another, correct?"

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1 "A. I think with the modifier empirical, I think we've reached
2 an agreement."
3 Dr. Mathur, what's your reaction to that testimony?
4 A. It's consistent with what I had described. I think
5 Dr. Singer agrees that he didn't provide any empirical analysis
6 of the alleged network.
7 Q. So let's talk about your analysis. Please tell the jury
8 what you did.
9 A. As I described earlier, I analyzed a sample of trading
10 days, and the second metric that I was interested in was to see
11 whether or how frequently on any day for a particular currency
12 pair, how many traders from different banks were represented.
13 In other words, how frequently were traders across different
14 banks having spread discussions. Again, setting aside whether
15 the spread discussions was appropriate or not, but just how
16 frequently were multiple banks having spread discussions on the
17 same day for a currency pair.
18 Q. I'd like to focus -- let me ask, did you do an analysis on
19 what we've heard is the most frequently traded currency pair,
20 the euro/dollar?
21 A. I did an analysis of all currency pairs, but yes, the
22 euro/dollar is frequently traded, so that's helpful to talk
23 about.
24 Q. What did you find with respect to your analysis on the
25 euro/dollar?

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<p>MAJ3FOR1 Mathur - Cross Page 1012</p> <p>1 A. I think I explained there are many factors that economists 2 analyze and that I analyzed in order to assess whether the 3 marketplace is or is not conducive. The stability of spreads 4 or lack thereof is one factor, certainly, and an important 5 factor, but you look at this in totality, yes. 6 Q. It was an important factor that you set forth in your 7 report at some length, right? 8 A. Yes. 9 Q. Then, we took a look at some documents and we'll take a 10 look at one right now, if we take a look at PTX 2456. If we go 11 down, this is Nick Ritter and Daniel Wise at Credit Suisse, 12 this is Nick Ritter from Moore Capital. And he's written a 13 letter. And he's talking about the spread matrix. Do you see 14 that he wanted to -- would you mind updating our spread matrix 15 please. 16 Do you see Moore Capital was asking the bank to do 17 that? 18 A. Yes. 19 Q. He says we rarely price banks, although we do use a spread 20 matrix as a barometer. 21 Do you see that? 22 A. Yes. 23 Q. Then he goes on to say we are interested in consistency and 24 eliminating negative surprise more than the absolute best 25 price.</p>	<p>MAJ3FOR1 Mathur - Cross Page 1014</p> <p>1 Q. BlackRock expected the banks to hold the spreads in normal 2 market conditions at least 90 percent of the time. Correct? 3 A. I see that's what this says, yes. 4 Q. And isn't that what those spread matrices show, that in 5 fact the submissions did hold quarter after quarter? 6 A. No. They don't. 7 Q. You disagree with that? 8 A. I do. Because as we saw in the spread matrices, even with 9 the lines that you presented, there were many quarters, 10 including, for example, the financial crisis, where they were 11 different. 12 Q. You understood that the banks did expect -- that the banks 13 did not expect -- that the customers did not expect the banks 14 to collude on these spread matrices, right? 15 A. Could you repeat that question? I didn't -- I'm sorry, I 16 couldn't -- could you just repeat that. 17 Q. You understood that the customers did not expect the banks 18 to be colluding on the spread matrices that they submitted. 19 Correct? 20 A. That's fair, yes. 21 Q. Because they were competitors and they shouldn't have been 22 colluding with each other on the matrices they submitted to 23 customers, correct? 24 A. I think we want to be precise in what you mean by 25 colluding. If you mean by colluding what an economist means,</p>
<p>MAJ3FOR1 Mathur - Cross Page 1013</p> <p>1 Do you see that? 2 A. Yes, I see that. 3 Q. And was that type of statement, did you see a lot of 4 documents like that from these various customers back to the 5 banks? 6 A. I understand Moore Capital is one customer. What's being 7 described here is consistent with what I understand, for 8 example, other customers like BlackRock considered in 9 requesting information on the spread grids. 10 Q. Let's take a look at the next document which is from 11 BlackRock. PTX 0003. If we go to the back of that document 12 which is where the e-mail starts. Not all the way back. One 13 up to see -- who it's from. 14 This is from David Turner from BlackRock and he's 15 writing to and he is sending this to one of the banks. And 16 he's sending it specifically to BNP. And he attaches some 17 instructions. 18 If we go to the next page. If we go to the top 19 instruction. Do you see that instruction? We ask you to 20 complete the spreads with a view to where current market 21 liquidity is and with the aim that you did not widen unless 22 market conditions are extreme. We expect you to hold these 23 spreads at least 90 percent of the time. 24 Do you see that? 25 A. Yes, I do.</p>	<p>MAJ3FOR1 Mathur - Cross Page 1015</p> <p>1 which is attempting to raise prices above competitive levels, I 2 completely agree. 3 But I think we've also heard that exchanging 4 information to understand market conditions in order to offer 5 the best guess that they can to fill out these spread matrices 6 is different from that. 7 Q. So you think that two competitors talking about what 8 numbers to put in the spread matrices, first of all, is not a 9 violation of some internal policy at the company? 10 A. I'm not a compliance or a legal expert. I'm not offering 11 any opinions on internal company policies. 12 Q. You think it raises anticompetitive concerns if two 13 competitors are sharing what numbers to put in a spread matrix 14 that goes to a customer? 15 A. From an economist perspective, exchanging or sharing 16 opinions on information in the marketplace in order to provide 17 the best guess, I don't think that that is a problem in this 18 setting, given this marketplace and given everything we've 19 heard about this market. 20 Q. How about a specific spread? Is that a problem? 21 MR. MOSS: Objection. 22 THE COURT: Overruled. 23 A. I don't follow the question. How about a specific spread 24 for what? Sorry. 25 Q. Between two customers about how to fill in a spread</p>

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<p>MAJ3FOR1 Mathur - Cross Page 1024</p> <p>1 A. I see it. Yes.</p> <p>2 Q. Within you heard the testimony here, literally within</p> <p>3 minutes, he has the spreads of eight banks. He's able to get</p> <p>4 that. And you don't agree that's a form of monitoring?</p> <p>5 A. Well, these show ranges across the different banks. And I</p> <p>6 think as we've discussed earlier, ranges or even specific</p> <p>7 spreads are an indication of market conditions. So yes, he I</p> <p>8 think understands what other dealers' views of market</p> <p>9 conditions are.</p> <p>10 (Continued on next page)</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>MAJHFor2 Mathur - Cross Page 1026</p> <p>1 correct?</p> <p>2 A. To this chatroom, he would have to be invited by someone</p> <p>3 who's in the chatroom. I understand that.</p> <p>4 Q. Do you think the chatrooms are all interchangeable?</p> <p>5 A. I don't -- what do you mean by "interchangeable"? I don't</p> <p>6 think I have a view on that one way or another.</p> <p>7 Q. Aren't these chatrooms, for the most part that you've</p> <p>8 reviewed, specific to certain currency pairs that a trader may</p> <p>9 be trading so that one chatroom won't be the same as another;</p> <p>10 that they're not just fungible?</p> <p>11 A. I really don't know. I think they're persistent chats.</p> <p>12 They go on every day for a long time. They seem to discuss a</p> <p>13 lot of things, so I don't really know.</p> <p>14 Q. But they don't discuss a lot of different currencies. Do</p> <p>15 you understand that?</p> <p>16 A. I don't think I know one way or another. I think in some</p> <p>17 chats we see references to more than one currency, and others</p> <p>18 we don't. As I explained, I haven't -- it's hard to follow the</p> <p>19 context and the meaning of the chats. My analysis was</p> <p>20 therefore empirical and based on the data.</p> <p>21 Q. Let's take a look the next in line, PTX 1964A. Let's go</p> <p>22 over to -- this is an Old Gits chat with Mr. Cummins and</p> <p>23 Mr. Hatton, and there are eight individuals here from four</p> <p>24 different competitor banks: Citi, Merrill, HSBC. And if we go</p> <p>25 over to line 11:15:11, here, Mr. Cummins says: Note to Gits.</p>
<p>MAJHFor2 Mathur - Cross Page 1025</p> <p>1 BY MR. COUGHLIN:</p> <p>2 Q. You don't find it odd that he within minutes can find out</p> <p>3 the spreads of eight other banks that are offering to</p> <p>4 customers, eight other competing banks?</p> <p>5 A. I don't think it's odd. I think these are chats where</p> <p>6 they're exchange their opinions and views on market conditions</p> <p>7 as we've seen occur. So the fact that they know each other's</p> <p>8 views on where they think the market might be or might be</p> <p>9 heading, I don't find that odd.</p> <p>10 Q. Yesterday you talked about punishment, that there had to be</p> <p>11 punishment, and you talked about a certain email.</p> <p>12 If we could go to next in line PTX -- another chat,</p> <p>13 PTX 1359A. And if we could go in on this, this is another chat</p> <p>14 with Credit Suisse and a number of other banks, at least</p> <p>15 Toronto-Dominion, Deutsche Bank, Credit Suisse. If we could go</p> <p>16 down to page 5 of this, if we could go up to Parikh says, from</p> <p>17 Goldman Sachs, said: Jules, you may as well eject him.</p> <p>18 Stuart Dunn uses some colorful language back, and</p> <p>19 Jules Munson has removed the following users from the chatroom.</p> <p>20 Do you see that?</p> <p>21 A. I see that.</p> <p>22 Q. Now, you know these chatrooms are by invitation only,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. So Mr. Dunn cannot get back in unless they let him back in,</p>	<p>MAJHFor2 Mathur - Cross Page 1027</p> <p>1 We have no friends. You want to be in this chat in six months?</p> <p>2 Do you understand, then, that you have no friends, no special</p> <p>3 prices, no stepping up, or any of that garbage?</p> <p>4 Do you understand that Mr. Cummins is threatening</p> <p>5 other people in the chat that if they try to undercut or do</p> <p>6 something that the group feels is undercutting, that they won't</p> <p>7 be in the chat anymore?</p> <p>8 A. I think Mr. Cummins, if I recall, testified, so he'd</p> <p>9 probably be in the best position to explain.</p> <p>10 But what I've seen over the course of the trial is</p> <p>11 that there's a lot of bluster and bravado and, frankly,</p> <p>12 offensive language in the chats. I'm not sure I can -- I don't</p> <p>13 purport to be able to interpret this.</p> <p>14 Q. We talked a little bit at your deposition about certain</p> <p>15 pleas, so I'd like to talk about the pleas of a group called in</p> <p>16 chats The Cartel.</p> <p>17 Are you aware of the different pleas that were entered</p> <p>18 into in this case?</p> <p>19 A. I believe we've heard during the trial The Cartel chat and</p> <p>20 the guilty pleas associated with that.</p> <p>21 Q. And that's with -- that RBS, JPMorgan and Citi and Barclays</p> <p>22 pled guilty to manipulating the spreads?</p> <p>23 MR. MOSS: Objection.</p> <p>24 THE COURT: Overruled.</p> <p>25 A. I'm aware that there was a guilty plea associated with that</p>

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1	First, let's take a ten-minute break.		1	evidence was proper under the law for your consideration.	
2	(Jury excused)		2	You are to consider these instructions together as a	
3	THE COURT: We're adjourned for ten minutes.		3	whole; in other words, you are not to isolate or give undue	
4	(Recess)		4	weight to any particular instruction.	
5	THE COURT: Who's doing the summations?		5	It is a tradition and right of our legal system that	
6	MR. COUGHLIN: Christopher Burke.		6	parties involved in legal disputes have a jury chosen from the	
7	MR. WASHER: Herb Washer.		7	members of their community to render a verdict. Your role as	
8	THE COURT: OK. Where is Mr. Burke?		8	the jury is to decide the factual issues in this case. I, as	
9	MR. COUGHLIN: He's right outside.		9	the judge, will instruct you on the law, and you must accept	
10	THE COURT: OK.		10	the law as I state it. Then you will apply the law to the	
11	MR. COUGHLIN: He's ready to jump in in a minute.		11	facts as you find them. The result of your work will be the	
12	THE COURT: Rather than having him make an entrance,		12	verdict that you return.	
13	maybe we can have him come in.		13	You, as jurors, are the sole and exclusive arbiters of	
14	MR. WASHER: Your Honor, could we possibly move the		14	the facts. You determine the weight of the evidence. You	
15	lectern over to where it was for the openings?		15	appraise the credibility of witnesses. You draw the reasonable	
16	THE COURT: Yes.		16	inferences from the evidence or lack of evidence. And you	
17	(Jury present)		17	resolve such conflicts as there may be in the testimony. In	
18	THE COURT: Ladies and gentlemen, I've put a copy of		18	determining these issues, no one may invade your province or	
19	the final jury instructions on your chair, and this is your		19	function as jurors. For you to determine the facts, you must	
20	copy. I suggest you put your initials on the front page. What		20	rely on your own recollection of the evidence. I will instruct	
21	I'm going to do is read them to you -- and you don't have a		21	you momentarily on what is and is not evidence.	
22	copy?		22	Because you are the sole and exclusive arbiters of the	
23	JUROR: I do now.		23	facts, I do not mean to indicate any opinion of mine as to what	
24	THE COURT: If you're not a visual person, you can		24	facts or what your verdict should be. The rulings I have made	
25	just listen. If you want to follow along, you can do that. If		25	during the trial are not any indication of my views of what	
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1	you want to underline things or circle things, make any marks		1	your decision should be. You are expressly to understand that	
2	you want to on them, feel free to do that. This is your copy,		2	the Court has no opinion as to the verdict you should render in	
3	and you can take them into the jury room when you deliberate.		3	this case.	
4	We will destroy all the copies at the end of the deliberations,		4	My role as the judge is to instruct you on the law	
5	so no one will see your notes or your markings. And the same		5	that you are to apply to the facts as you find them. You, as	
6	is true as I mentioned for the notes you've been taking.		6	jurors, are bound to accept my instructions on the law, even if	
7	You'll be able to take the notes into the jury room with you,		7	you feel that the law should be different from what I say it	
8	and then we'll destroy them at the end.		8	is. Also, if anyone or any document has stated or states	
9	So this is a two-sided copy, and you'll see that the		9	during closing argument a legal principle different from what I	
10	first -- after the cover page, the next page is the table of		10	tell you in my instructions, it is my instructions you must	
11	contents. This is your friend. You may want to refer back to		11	follow. You should not single out any one instruction or any	
12	the table of contents when you are deliberating and you have a		12	one word or phrase in an instruction as alone stating the law,	
13	question of the law on some issue. I'm beginning on the first		13	but you should consider the instructions as a whole.	
14	page of text.		14	All parties to a civil lawsuit are entitled to a fair	
15	Members of the jury, you have now heard all of the		15	trial. Therefore, you must make fair and impartial decisions	
16	evidence in the case. You are about to hear the final		16	to arrive at a just verdict. Under your oath as jurors, you	
17	arguments of the parties, and then you will undertake your		17	are to be guided solely by the evidence, or lack of evidence,	
18	final and most important function as jurors. You have paid		18	presented during the trial, as well as the applicable law,	
19	careful attention to the evidence, and I am confident that you		19	without regard to your feelings, positive or negative, for any	
20	will act together with fairness and impartiality to reach a		20	party or attorney. All parties are entitled to the same fair	
21	just verdict in this case.		21	and conscientious consideration. If you let sympathy or bias	
22	My duty at this point is to instruct you on the law,		22	interfere with your clear thinking, then there is a risk that	
23	and it is your duty to accept my instructions and apply them to		23	you will not arrive at a just verdict.	
24	the facts as you determine them, just as it has been my duty to		24	As I've said, in determining the facts, you must rely	
25	preside over the trial and to decide what testimony and		25	on your own recollection of the evidence. What is evidence?	

<p>MAJHFor2 Mathur - Cross Page 1048</p> <p>1 purpose.</p> <p>2 A conspiracy may vary in its membership from time to</p> <p>3 time, and a conspiracy may be formed without all parties coming</p> <p>4 to an agreement at the same time, such as where competitors</p> <p>5 separately accept invitations to participate in a plan to</p> <p>6 restrain trade. Similarly, it is not essential that all</p> <p>7 persons or entities acted exactly alike, nor is it necessary</p> <p>8 that they all possessed the same motive for entering the</p> <p>9 agreement. It is also not necessary that all the means or</p> <p>10 methods claimed by plaintiffs were agreed upon to carry out the</p> <p>11 alleged conspiracy, nor that all of the means or methods that</p> <p>12 were agreed upon were actually used or put in operation. It's</p> <p>13 also not necessary that all persons or businesses alleged to be</p> <p>14 members of the conspiracy were actually members.</p> <p>15 It is the agreement or understanding to restrain trade</p> <p>16 by widening, fixing, stabilizing, or maintaining spreads in the</p> <p>17 foreign exchange market that constitutes a conspiracy.</p> <p>18 Therefore, you may find a conspiracy existed regardless of</p> <p>19 whether it succeeded or failed.</p> <p>20 The Sherman Act prohibits agreements among competitors</p> <p>21 to fix, stabilize, raise, lower, or maintain prices, regardless</p> <p>22 of whether the agreed-upon prices are reasonable. Therefore,</p> <p>23 in order to prove that a price-fixing conspiracy existed,</p> <p>24 plaintiffs do not need to show that the prices agreed upon were</p> <p>25 high or low or reasonable or unreasonable or that spreads were</p>	<p>MAJHFor2 Mathur - Cross Page 1050</p> <p>1 foreign exchange market solely from the fact that banks</p> <p>2 exchanged price-related information. On the other hand, if you</p> <p>3 find that price information was exchanged, you may consider</p> <p>4 whether it was exchanged as part of an agreement to widen, fix,</p> <p>5 stabilize, or maintain spreads, along with all of the other</p> <p>6 evidence bearing on whether there was such an agreement.</p> <p>7 So, as I said, the first question you'll be asked is</p> <p>8 whether there was a conspiracy. So now turning to the second</p> <p>9 question, and that is whether plaintiffs have proved that</p> <p>10 Credit Suisse knowingly participated in a conspiracy to fix</p> <p>11 prices.</p> <p>12 Before you can find that Credit Suisse participated in</p> <p>13 a conspiracy, the evidence must show that Credit Suisse</p> <p>14 knowingly joined in the unlawful plan either from the beginning</p> <p>15 or at some later time with knowledge of at least some of the</p> <p>16 conspiracy's unlawful purposes and with the intent to advance</p> <p>17 some purpose of the conspiracy.</p> <p>18 A person who knowingly joins an existing conspiracy or</p> <p>19 who participates only in part of a conspiracy with knowledge of</p> <p>20 the overall conspiracy is just as responsible as if he or she</p> <p>21 had been one of those who formed or began the conspiracy and</p> <p>22 participated in every part of it. You may not find that Credit</p> <p>23 Suisse was a member of the conspiracy based only on its</p> <p>24 knowledge of wrongdoing or association with others who were</p> <p>25 involved in wrongdoing.</p>
<p>MAJHFor2 Mathur - Cross Page 1049</p> <p>1 actually widened.</p> <p>2 If you find that Credit Suisse engaged in a</p> <p>3 price-fixing conspiracy, it is not a defense that Credit Suisse</p> <p>4 acted with good motives, thought it was legal, or that the</p> <p>5 conduct may have had some good results.</p> <p>6 Competition may be evidence of the lack of a</p> <p>7 conspiracy, but evidence of competition about itself does not</p> <p>8 preclude the existence of a conspiracy. If you find a</p> <p>9 conspiracy existed, it is no defense that Credit Suisse and its</p> <p>10 alleged conspirators actually competed in some respects with</p> <p>11 each other or failed to eliminate all competition between them.</p> <p>12 A price-fixing conspiracy is unlawful, even if did not extend</p> <p>13 to all currency pairs traded by Credit Suisse and its alleged</p> <p>14 conspirators or did not affect all of their customers or</p> <p>15 transactions.</p> <p>16 The fact that Credit Suisse and their alleged</p> <p>17 coconspirators may have exchanged price-related information,</p> <p>18 including spreads, does not necessarily establish that they</p> <p>19 agreed to widen, fix, stabilize, or maintain spreads. There</p> <p>20 may be other legitimate reasons that would lead competitors to</p> <p>21 exchange such information, and the law recognizes that</p> <p>22 exchanges of price information may enhance competition and</p> <p>23 benefit customers.</p> <p>24 Thus, you may not infer the existence of an illegal</p> <p>25 agreement to widen, fix, stabilize, or maintain spreads in the</p>	<p>MAJHFor2 Mathur - Cross Page 1051</p> <p>1 To act knowingly means to act deliberately and not</p> <p>2 because of mistake, accident, or other innocent reason. As I</p> <p>3 have mentioned, a person may become a member of a conspiracy</p> <p>4 without full knowledge of all of the details of the conspiracy,</p> <p>5 the identity of all of its members, the scope of the</p> <p>6 conspiracy, the parts they played, or that their conduct</p> <p>7 violates the law. Knowledge of the essential nature of the</p> <p>8 plan is enough. On the other hand, a person who has no</p> <p>9 knowledge of a conspiracy but happens to act in a way that</p> <p>10 helps the conspiracy succeed does not thereby become a</p> <p>11 conspirator.</p> <p>12 Your determination whether Credit Suisse knowingly</p> <p>13 joined a conspiracy must be based solely on the actions of</p> <p>14 Credit Suisse. You should not consider what others may have</p> <p>15 said or done. Whether Credit Suisse was a member of the</p> <p>16 conspiracy must be established by evidence of its own conduct,</p> <p>17 by what it said or did.</p> <p>18 Once you have found that any person or entity is a</p> <p>19 member of a conspiracy, he, she, or it is presumed to remain a</p> <p>20 member and is responsible for all actions taken by all</p> <p>21 conspirators during and in furtherance of the conspiracy until</p> <p>22 it is shown that the conspiracy has been completed or</p> <p>23 abandoned.</p> <p>24 If you find there was a conspiracy and that Credit</p> <p>25 Suisse participated in it, you will also be asked to identify</p>

<p>MAJHFor2 Mathur - Cross Page 1052</p> <p>1 the other banks that you find knowingly participated in that 2 conspiracy. You should apply all the principles I just 3 outlined to determine what other banks participated in any 4 conspiracy you may find.</p> <p>5 The next topic is single or multiple conspiracies. 6 The plaintiffs allege that Credit Suisse and up to 15 7 other banks were all members of one conspiracy. Credit Suisse 8 has denied its participation in any conspiracy. You may find 9 that there was no conspiracy, one conspiracy, or several 10 conspiracies. Whether plaintiffs have proved a single 11 conspiracy or multiple conspiracies or no conspiracies at all 12 is a question of fact that you must decide. If you find that 13 Credit Suisse did enter into a conspiracy with other banks, you 14 will need to answer how many conspiracies Credit Suisse joined.</p> <p>15 And just to clarify, you'll also be asked which banks 16 were members of each such conspiracy.</p> <p>17 To prove a single conspiracy, plaintiffs must show by 18 a preponderance of the evidence that each of the alleged 19 members of the conspiracy agreed to participate in what it knew 20 to be a collective venture directed toward a common goal. 21 Multiple conspiracies, on the other hand, may be found when the 22 evidence shows separate agreements or networks operating 23 independently of each other. It is possible for a single 24 entity or single person to participate in more than one 25 conspiracy. Proof that two or multiple groups of people</p>	<p>MAJHFor2 Mathur - Cross Page 1054</p> <p>1 in the foreign exchange spot market during the relevant period 2 in violation of Section 1 of the Sherman Act. You may consider 3 those guilty pleas and conviction as evidence that the entities 4 and individuals who pleaded guilty or were convicted, in fact, 5 violated the antitrust laws in the manner and during the period 6 charged. You may consider those guilty pleas and conviction 7 only as evidence of whether there was a conspiracy and not as 8 evidence of whether Credit Suisse joined the conspiracy. You 9 may also consider the criminal convictions of individuals who 10 appeared as witnesses in this case when you assess their 11 credibility.</p> <p>12 You have heard traders from Credit Suisse and other 13 banks decline to answer questions on the grounds of the Fifth 14 Amendment privilege against self-incrimination. The Fifth 15 Amendment to the United States Constitution affords every 16 person the right to decline to answer questions if he believes 17 that the answers may tend to implicate him in criminal 18 activity.</p> <p>19 However, because this is a civil case, you are 20 permitted, but not required, to infer that the withheld 21 information would have been unfavorable to the witness' 22 interest and the interest of a party who is closely associated 23 with the witness. Any inference you may draw should be based 24 on all of the facts and circumstances in the case. For 25 example, based on the facts and circumstances, you may or may</p>
<p>MAJHFor2 Mathur - Cross Page 1053</p> <p>1 pursued similar or even identical activities but did not enter 2 into an agreement to do so does not prove that they were part 3 of a single conspiracy together. However, as I mentioned, a 4 single conspiracy may exist even if all the members did not 5 know each other or never sat down together or did not know what 6 roles the other members would play, even if different members 7 joined at different times, or the membership of the conspiracy 8 changed over time.</p> <p>9 A single conspiracy also may involve subgroups 10 committing acts in furtherance of an overall objective in 11 different places and over a long period of time. What is 12 controlling is whether the plaintiffs have proved by a 13 preponderance of the evidence that there was one overall 14 agreement on common objectives.</p> <p>15 After the closing argument, I will go over the verdict 16 form that you will need to fill out at the end of your 17 deliberations. If you find that Credit Suisse participated in 18 a conspiracy, you will be asked how many different conspiracies 19 you find that Credit Suisse participated in, and you will be 20 asked which other banks participated in each conspiracy and 21 during what time periods.</p> <p>22 You have heard evidence that certain corporations or 23 entities and individuals in the foreign exchange spot market 24 who were not affiliated with Credit Suisse pleaded guilty or 25 were convicted at trial for engaging in an antitrust conspiracy</p>	<p>MAJHFor2 Mathur - Cross Page 1055</p> <p>1 not find a close association between a witness and Credit 2 Suisse if the witness was an employee of Credit Suisse, or if 3 you find that the witness was a conspirator of Credit Suisse.</p> <p>4 I caution you that you may not find that the 5 plaintiffs have proven their claims against Credit Suisse based 6 solely on the negative inference, if any, you draw from the 7 fact that a witness or multiple witnesses declined to testify 8 in this case. Such inferences are factors you may consider, 9 but without more are not sufficient to prove participation in a 10 conspiracy to restrain trade.</p> <p>11 You have heard evidence about various banks' internal 12 policies concerning the sharing of spreads. You should not 13 conclude that violation of a company policy necessarily 14 violates the law. Nor should you include that compliance with 15 a company policy necessarily is compliance with the law. I 16 have separately instructed you on the antitrust laws that apply 17 in this case, and you should not look to any bank's policy to 18 provide a statement of the antitrust laws that apply here.</p> <p>19 So with these instructions in mind, you will next, but 20 not now, hear from the lawyers who will give their closing 21 arguments. I'll give you this reminder right before the 22 closing arguments, too, the arguments aren't evidence, because 23 the lawyers aren't witnesses. It's intended to help you 24 understand the evidence.</p> <p>25 But before the closing argument, what I suggest, so we</p>

Maj3for3	Summation - Mr. Washer	Page 1076	Maj3for3	Summation - Mr. Washer	Page 1078
1	cannot consider these guilty pleas at all as evidence that		1	Remember Mr. Landes? The plaintiffs' one live witness	
2	Credit Suisse participated in the conspiracy. They may be		2	who took the Fifth. Remember how when the plaintiffs' lawyer	
3	evidence that these other traders who pled guilty or who were		3	asked him whether he worked at BoA and whether he sat for a	
4	found guilty did something wrong. But they're not evidence		4	deposition, he took the Fifth. Remember when my colleague	
5	that any Credit Suisse trader participated in a conspiracy.		5	Mr. Hall asked Mr. Landes, would you take the Fifth to whatever	
6	Putting aside that they show nothing about Credit		6	I asked you? And Mr. Landes took the Fifth in response to that	
7	Suisse, do these guilty pleas come close to showing you some		7	question.	
8	sort of massive global conspiracy like the one plaintiffs are		8	All of the plaintiffs' so-called Fifth Amendment	
9	claiming here? They don't.		9	testimony is exactly the same. Witnesses took the Fifth in	
10	As I said, the guilty plea evidence the plaintiffs		10	response to all sorts of perfectly innocent questions.	
11	showed you involves just two chatrooms. You heard about both		11	So ask yourselves, is the conclusion that the	
12	of those chatrooms in great detail. The ZAR chat with		12	plaintiffs want you to draw that these folks would have	
13	Mr. Cummins, Mr. Katz, Mr. Aiyer, and Nicholas Williams. And		13	incriminated themselves if they answered, is that really	
14	the Cartel chat, with Mr. Ashton, Mr. Gardiner,		14	supported by the evidence?	
15	Mr. Ramchandani, and Mr. Usher. No Credit Suisse trader was		15	Every other trader who testified denied the existence	
16	ever in either of those chats.		16	of this big global conspiracy alleged by the plaintiffs. So is	
17	What's more, the plaintiffs' own witnesses testified		17	it really right to assume that the witnesses who took the Fifth	
18	under oath that those two chatrooms didn't have anything to do		18	would have given a different answer if they testified?	
19	with one another. Chris Cummins told you that the alleged		19	I'll say one thing. This is the thinnest of proof of	
20	conspiracy involving Mr. Ashton, Mr. Gardiner, Mr. Ramchandani,		20	which to base an allegation of a global price fixing	
21	and Mr. Usher from the Cartel chatroom had nothing to do with		21	conspiracy. Plaintiffs want you to look at these non-answers,	
22	his ZAR conspiracy.		22	and they want to you have a reaction without looking too	
23	So, are how on earth could these pleas to isolated		23	closely at the evidence. Oh, they took the Fifth so they must	
24	misconduct in these two chatrooms, each of which involved just		24	have done something wrong.	
25	four traders, provide any support for this global market-wide		25	But when you actually look at the evidence, the	
Maj3for3	Summation - Mr. Washer	Page 1077	Maj3for3	Summation - Mr. Washer	Page 1079
1	conspiracy? They can't. And they don't.		1	questions that were actually asked of these witnesses, I think	
2	So what about those Fifth Amendment assertions that		2	you'll see their non-answers are not really proof of anything.	
3	Mr. Burke was talking about? In their opening, the plaintiffs		3	So what about the witnesses who did testify? Did they	
4	told you that 26 traders took the Fifth because they didn't		4	give you anything on which to hang a finding of the plaintiffs'	
5	want to talk about whether they conspired to fix spreads in		5	global spread widening conspiracy?	
6	electronic chatrooms.		6	Let's start with the plaintiffs' own witnesses. The	
7	The plaintiffs talked about these Fifth Amendment		7	plaintiffs offered testimony from three witnesses who admitted	
8	assertions in the same breath that they discussed the guilty		8	they committed misconduct in the FX market. Jason Katz, who	
9	pleas, almost suggesting that they're the same thing.		9	was here in court. Chris Cummins, his ZAR chatroom colleague	
10	But, ladies and gentlemen, it doesn't matter how big a		10	who testified about video. And then Matt Gardiner, who, as I	
11	spectacle plaintiffs try to make of those assertions. Only		11	said, was in the separate Cartel chatroom and testified by	
12	you -- not the plaintiffs' lawyers, not me -- only you can		12	video.	
13	decide what significance to attach to those Fifth Amendment		13	So these were the plaintiffs' stars. They were the	
14	assertions.		14	only witnesses in this trial who admitted to illegal acts in	
15	When you do, I would respectfully ask you to consider		15	the FX market. Each cooperated with the authorities, and each	
16	a couple of things. It's every person's right in this country		16	of them was under an obligation to tell the truth all about	
17	to decide not to answer questions when asked. That right is		17	their misconduct and about all of the people they did it with.	
18	built into the Constitution. You don't need to have done		18	If anyone was going to testify that there was a global	
19	anything wrong to use that right. You should look at the		19	conspiracy to widen spreads among 16 banks, it would have been	
20	testimony of the so-called Fifth Amendment witnesses, and you		20	these three. They had nothing to lose and everything to gain	
21	should decide for yourself why they asserted their Fifth		21	by admitting to what the plaintiffs allege here, if it actually	
22	Amendment rights. Is it because they didn't want to talk about		22	happened.	
23	whether they conspired to fix spreads, as the plaintiffs say,		23	But did they? Well, actually just the opposite.	
24	or were they taking the Fifth with respect to every single		24	Every one of them was asked whether they participated in some	
25	question, no matter the topic.		25	broader conspiracy that went beyond the misconduct in the	

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MAJHFor4	Summation - Mr. Washer	Page 1096	MAJHFor4	Summation - Mr. Washer	Page 1098
1	spread widening conspiracy? One thing they didn't show you was		1	plaintiffs are trying to sell to you as proof of the	
2	any evidence that spreads actually widened during the		2	conspiracy. Plaintiffs claim there are 2,500, 2,571 chats, two	
3	conspiracy. Dr. Mathur told you that this would have been the		3	chats per day, that support their case. They put them all in	
4	most powerful evidence of a spread widening conspiracy, if		4	evidence. They told you at the beginning of the case to trust	
5	there was one.		5	the chats, but they don't actually seem to want you to do that	
6	Now, that's, just to be clear, not to say a conspiracy		6	since they don't show you most of them or even summarize them	
7	has to succeed for it to be a conspiracy, but you would think		7	in any way that you might be able to use. What they do is they	
8	that if there were a six-year spread widening agreement, the		8	just ask you to assume that all the others are like the ones	
9	plaintiffs would have shown you some evidence that spreads		9	they've shown you, but they're not. Twenty-five percent of	
10	actually widened, but they don't do anything like that. In		10	them include customers. You remember that? Or traders from	
11	fact, the only evidence plaintiffs presented on spreads during		11	banks who aren't alleged to be part of the conspiracy. And	
12	the alleged conspiracy was Mr. Robin's conclusion that they		12	they're very different in other ways too.	
13	stayed the same. You remember that? Based on Mr. Robin's		13	You know, they've shown you the same small group of	
14	analysis, before the alleged conspiracy, during the alleged		14	chats with troubling language again and again, and we'll get to	
15	conspiracy, after the alleged conspiracy, spreads in the FX		15	those, but they really aren't representative of the vast	
16	market largely stayed the same. They didn't widen.		16	majority of the spread chats the plaintiffs put in evidence.	
17	And Mr. Howarth, you remember the Credit Suisse		17	So, for example, plaintiffs put into evidence, but didn't show	
18	salesperson from London who testified live, he told you that,		18	you, chat after chat where traders had different opinions on	
19	in his experience, spreads compressed or narrowed over the		19	spreads.	
20	relevant period. This is a big problem for plaintiffs because		20	Here's one. One trader says 9. Russell Katz thought	
21	Dr. Singer speculated that the 16 banks had the power to widen		21	13.	
22	spreads. Well, if they had that power and they actually		22	Here's another. UBS trader asks for opinions on	
23	agreed, how is there no evidence that spreads actually widened?		23	spreads in 1 billion euros. The RBS trader said 40, the UBS	
24	And what about the customers the plaintiffs' lawyers		24	trader thought 50, and the Credit Suisse, Brian Walker, thought	
25	represent? Some of them were in the courtroom for parts of the		25	20/22. Vastly different opinions.	
MAJHFor4	Summation - Mr. Washer	Page 1097	MAJHFor4	Summation - Mr. Washer	Page 1099
1	trial, but did they tell you the spreads they were quoted were		1	These chats don't show an agreement on spreads. If	
2	wider because of the conduct of Credit Suisse or any bank?		2	anything, they show wide disagreement, and they do nothing to	
3	They were trading all the time with the banks. They would have		3	prove any spread widening conspiracy. At times customers, the	
4	had a front-row seat if the spreads were really widening during		4	supposed victims of the spread widening conspiracy, were	
5	this period. How easy would it have been to take the witness		5	actually in the chatrooms when spreads were discussed. How is	
6	stand and say that under oath if they thought it was true, but		6	that a conspiracy if the customer is in the chatroom?	
7	they didn't, and their silence speaks volumes about the		7	Now, the plaintiffs say, ignore all of this. These	
8	plaintiffs' proof or, rather, the lack of it.		8	traders are sharing spread information in these chats so their	
9	The plaintiffs always fall back on their chat		9	sales staff can go out and quote wider spreads. But where's	
10	evidence, but the chats also don't show a conspiracy to widen		10	the evidence of that? Where's the evidence that in a single	
11	spreads. Plaintiffs want you to throw all these chats into one		11	instance traders discussed a spread in a chatroom, the spread	
12	bucket. If a spread is discussed, it's a conspiracy chat, but		12	is wider than they would quote if they weren't discussing, and	
13	it's just not true. The judge has instructed you that there		13	then a wider spread is quoted to a customer? They'd need to do	
14	are legitimate reasons for sharing information, and witness		14	that over and over and over again, thousands of times a day.	
15	after witness told you that they exchanged views, they		15	In fact, trader after trader testified that they knew full well	
16	exchanged opinions, about the liquidity and volatility in the		16	what might happen if they did quote a wider spread, right?	
17	market so that trades can be priced properly in the market.		17	They'd lose business. And other traders said they actually	
18	Think about all the traders who testified on video and		18	quoted different spreads, narrower spreads, than what they	
19	live in court who said they routinely discuss spreads in		19	discussed in the chatrooms. So they talk about 12 in the	
20	chatrooms. Did they seem like they'd been caught doing		20	chatroom, and they'd go ahead and quote 10.	
21	something wrong? Just the opposite. They made clear this was		21	Again, how is that a conspiracy to widen spreads? You	
22	just a normal part of the job. They used the chats to stay		22	know, the old saying that actions speak louder than words.	
23	informed about market liquidity because that's what their		23	Well, where's the action? Where's the actual evidence that the	
24	customers expected.		24	words on the paper plaintiffs have shown you amounted to an	
25	This is clear from the face of many of the chats that		25	agreement to quote wider spreads? The answer is there is none.	

MAJHFor4	Rebuttal - Mr. Burke	Page 1116	MAJHFor4	Rebuttal - Mr. Burke	Page 1118
1	\$1,000 an hour to look at chats, plus he gets a piece of the		1	Let me run this up for you. This case started nine	
2	action. He didn't want to tell you that, so I brought it out.		2	years ago. The Court entrusted us, appointed us class counsel	
3	He gets a piece. What can we reasonably expect of you after		3	to represent the class, and we were humbled by that, because we	
4	eight days, nine days? You're getting so much information		4	represent working people. Oklahoma Firefighters, Chase Rankin	
5	thrown at you, and we're trying to do it in a way that you can		5	up there, he's been here this entire time. Grenville	
6	absorb and make sense of it.		6	Henderson, Cathy Smith from the Virgin Islands, they've been	
7	Credit Suisse complains we haven't produced enough		7	here the entire time. Jim Nimmo, he was here. He had to go	
8	chats. You can take 2,571 back with you. I really hope you		8	back. He's a fire captain for Oklahoma. He had other	
9	get to a decision before you go through them all, for your		9	responsibilities. He sends his regards and respect. They have	
10	sake, but it's there, and we encourage you to look at the		10	a real stake in this litigation, ladies and gentlemen, and	
11	evidence.		11	represent the other thousands of class members harmed by the	
12	The 2,571 exemplar chats in evidence provide an		12	conspiracy to widen spreads.	
13	abundant record of direct evidence. These were written when		13	We started with 16 defendants. Credit Suisse is here	
14	nobody thought anyone would ever see them. They're not post		14	today. We ask you to trust what you saw in the chats, trust	
15	hoc justifications. They're the clearest record of the		15	your common sense and experience. You can put aside the clever	
16	agreement between Credit Suisse and its coconspirator dealers.		16	points made by the lawyers on both sides. At root, the case is	
17	Ask yourself, as I said in opening, why aren't they		17	not that complicated. Credit Suisse and the dealers wanted to	
18	competing? Brian Walker, Credit Suisse's trader witness,		18	make more money. I stood up in front of you on the 11th and	
19	testified proudly, proudly -- he wasn't trying to hide it --		19	said the case is about money, and I showed you the money part.	
20	no, we're not competing. If what was going on in those		20	That's all it is, it's about money. They wanted more of it,	
21	chatrooms was legitimate, we would not have seen 26 traders		21	the banks do.	
22	from 13 banks, including Credit Suisse's former global head of		22	Credit Suisse and the dealers wanted to make more	
23	spot trading, assert the Fifth. There's no answer for that.		23	money. They could do so by widening spreads. They did so by	
24	Use your common sense.		24	forming a network of private invitation-only chatrooms.	
25	Not enough chats. There were 2,571 spread chats, 421		25	Really, how gullible to think that chatrooms don't form a	
MAJHFor4	Rebuttal - Mr. Burke	Page 1117	MAJHFor4	Rebuttal - Mr. Burke	Page 1119
1	unique chatrooms, 16 coconspirators. The dates range from 2007		1	network, that you don't talk across chatrooms. We showed you	
2	to 2013.		2	that, evidence of that, today. That's how networks work. They	
3	Credit Suisse, there were 726 examples of coordination		3	connect people; they don't isolate people. Credit Suisse and	
4	and outright agreement on spreads. Every other day they were		4	the dealers used the network of chatrooms to widen spreads.	
5	sharing detailed confidential information about what they were		5	You have a record of what the dealers did, when they did it,	
6	showing to customers. And as you learned from Mr. Robin, they		6	and who was involved.	
7	didn't need to share spreads every single day, because spreads		7	The burden here is 50 percent and a feather, OK? It's	
8	are durable and they correlate.		8	just this much and plaintiffs prevail. In a case where half	
9	Credit Suisse is in 101 spread chatrooms with all 15		9	the traders took the Fifth, five pled guilty. JPMorgan,	
10	conspirators from 2007 to 2013. And let me clear up one		10	Barclays, Citi, BNP, RBS pled guilty to felonies. Now, those	
11	misconception. Mr. Lawes stayed in that chatroom. He just		11	are negotiated settlements. They're going to be narrower.	
12	moved banks. He was in Credit Suisse, stayed in that chatroom		12	That's profound when you can take down banks like that for	
13	with Mr. Parikh and Mr. Munson, went to TD, stayed in the		13	price fixing in this market for the use of chatrooms, and they	
14	chatroom, came back to Credit Suisse, stayed in the chatroom.		14	want to diminish that. Take some responsibility. We're	
15	Now, without the network, you lose that network, we		15	depending on you.	
16	heard that once again clients can screw us. It will cost the		16	Two traders pled guilty. One went to prison. That	
17	banks millions. Nick Williams writes: Emails going out, all		17	doesn't look like a joke to me. Here, the simpler answer is	
18	chats with inter-bank traders need to be nonpersistent, one on		18	the correct answer. The evidence shows that Credit Suisse was	
19	one. So once again clients can screw us. It will cost the		19	part of a single conspiracy because there was a single goal,	
20	banks millions, said Mr. Katz.		20	and they all ascribed to it: widen the spread, widen the spread	
21	This is almost the exact same thing, only five years		21	at the expense of the customer. Didn't matter which chatroom	
22	later, that Mr. Parikh complained of in 2007 to Mr. Lawes and		22	you were in, didn't matter which currency pair it was, didn't	
23	Mr. Munson as the justification for the conspiracy: We're all		23	matter who the dealer was. Widen the spread with 15	
24	having to quote tighter. It's suicidal. We don't like those		24	coconspirator dealers from 2007 to 2013.	
25	silly spreads. What's the answer? Let's get together.		25	We thank you for your service, and it was our honor to	